Parliamentary Secretary's Task Force

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PARLIAMENTARY SECRETARY — PUBLIC WORKS AND GOVERNMENT SERVICES CANADA

GOVERNMENT-WIDE REVIEW OF PROCUREMENT

FINAL REPORT

Public Works and Government Services Canada
Travaux publics et Services gouvernementaux Canada

Canada

PARLIAMENTARY SECRETARY'S TASK FORCE

Government-Wide Review of Procurement

Final Report

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Parliamentary Secretary's Task Force
Government-Wide Review of Procurement

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Foreword

Following the release of our interim report, *Concepts for Discussion*, in September 2004, and the completion of data gathering, analysis and discussions, I am pleased to present the Final Report of the Parliamentary Secretary's Task Force, Government-Wide Review of Procurement.

This report outlines the distillation of our extensive research and analysis, and provides recommendations. As we conclude the work of this Task Force, we look forward with great excitement to the convergence of several related procurement reform initiatives being conducted both within Public Works and Government Services Canada and across government as a part of the Expenditure Review Committee process. In total, these transformations have the potential to make significant changes to the management of government procurement, producing improved effectiveness, efficiency, economy and government accountability for the benefit of all Canadians.

The Honourable Walt Lastewka, P.C., M.P.

Section

Introduction

The last twelve months have marked an extensive review of the Canadian federal procurement system. Headed by Parliamentary Secretary, the Honourable Walt Lastewka, the Parliamentary Secretary's Task Force, Government-Wide Review of Procurement, was established to review federal government procurement and make recommendations for improving the system. This report outlines the work of the Task Force and sets forth recommendations. The recommendations centre on the following areas: a corporate approach to procurement; commodity management; supplier management; human resources; and change management. Section One provides an introduction to the work of the Task Force, and Sections Two and Three summarize the various data gathering activities and analyses conducted by the Task Force. Section Four contains recommendations for improving government procurement based on the data gathering and analysis both summarized herein and in the Task Force's Concept Paper, and the results of the discussion process based on the Concept Paper. Section Five provides some concluding thoughts on the challenges and opportunities related to the type of change contemplated.

Governance

The review began on December 12th, 2003, when the Prime Minister named the Honourable Walt Lastewka as Parliamentary Secretary to the Minister of Public Works and Government Services (PWGSC) with special emphasis on procurement review. The Deputy Minister of PWGSC and the Assistant Deputy Minister of PWGSC's Acquisitions Branch established a Task Force to support Mr. Lastewka in his mandate. The Task Force was further supported by an interdepartmental committee of Directors General.

The Task Force was made up of members from PWGSC, the Department of Justice, the Department of National Defence and the Treasury Board Secretariat (TBS), as well as a private-sector consultant. Task Force members had a broad background in procurement and significant experience in the public sector.

The work of the Task Force was a *government-wide* initiative and included reviews of procurement objectives, activities, policies, legislation and management. The pan-government nature of the Task Force was reinforced by recognizing the work of the Task Force as one of the nine pillars of the TBS-led Expenditure Review Committee (ERC) process.

Objectives, Scope and Process

Objectives

The government is seeking a procurement system that is not only faster, simpler, and less costly, but also one that has strong ethical foundations, ensures value from a whole-of-government perspective and provides effective support for broad government priorities, governmental operational requirements and departmental programs. These objectives formed the basis for the Task Force's

The review was based on procurement by and for 98 departments and agencies (referred to in this report as "departments") listed in Schedules I, I.1 and II of the Financial Administration Act (FAA).

Limitations

This phase of the government's review of procurement did not include procurement by organizations listed in Schedule III of the FAA (Crown Corporations), or real property purchase, leasing and disposal.

The Task Force approached its review from a government-wide perspective. Accordingly, the scope of the review did not address the processes or perspectives of individual departments and agencies, such as DND, or those of specific clusters of departments aligned on particular issues, such as the Small Agencies Group. Further, the Task Force recognized that risk and complexity vary significantly across all government procurements, and therefore, chose not to look at specific examples of risk and complexity combinations such as those specific to Low Dollar Value procurement or to Major Crown Projects.

The Task Force concentrated its efforts on the government's overall approach to, and management of procurement. As a result, the Task Force did not consider individual policies or processes such as individual socio-economic benefit policies or approval processes within specific departments.

The Task Force examined the Purchasing Activity Reports, Public Accounts and the PWGSC common service procurement databases to garner as much information as possible on procurement government-wide. While a significant amount of information is available, it appears there are several important gaps, which limited the work of the Task Force. Primarily, it is difficult to gather sufficient detail at an enterprise or government-wide level. In addition, there is little information on procurement processes or outcomes, such

work. In reviewing the current system, and looking at best practices in procurement worldwide, the Task Force aimed to find a balance wherein procurement could be faster, simpler and more effective, and continue to provide the openness and transparency demanded by the Canadian public. Last, but certainly not least, the Task Force sought to make recommendations for a procurement system that demonstrates transparency, accountability and fiscal responsibility.

Scope

The Task Force's review addressed procurement at the government-wide level. In the broad sense, procurement is the strategic, proactive process of acquiring goods, services and construction from third parties in the best possible manner. This distinguishes procurement from a simple, transaction-based purchasing activity. The activities involved follow four phases.

1) The pre-contractual phase, which includes activities related to requirement definition and procurement planning
2) The contracting phase, which includes all activities from bid solicitation to contract award
3) The contract administration phase, which includes activities such as issuing contract amendments, monitoring progress, following up on delivery, payment, etc.
4) The post-contractual phase, which includes file final action (e.g. client satisfaction, contractor agreement to final claim, final contract amendment, completion of financial audits, proof of delivery, return of performance bonds) and closeout (e.g. completeness and accuracy of file documentation and adherence to file presentation standards)

as costs of the process, timeframes, or quality and performance of goods or services.

Process

The Task Force began its work with extensive documentary research, followed by initial interviews with key sources internal and external to government. Based on the preliminary research and analysis, the Task Force released a *Concepts for Discussion* document (Concept Paper) on its Web site in September 2004.

Submissions and comments were welcomed: through the Web site; meetings with staff and suppliers at PWGSC regional offices; meetings with supplier associations; speaking engagements; and international visits. Submissions to the Web site were received from individuals and organizations inside and outside of government across Canada. Regional offices of PWGSC arranged meetings in St. John's, Halifax, Montreal, Toronto, Edmonton, Vancouver and Victoria. In addition to meeting with suppliers in the regions, the Task Force met with key supplier associations in the National Capital Region as outlined earlier. Task Force members received feedback on findings presented at conferences, speaking engagements and meetings in Canada, the USA, the UK and Denmark.

The remaining work consisted of continued research and analysis based on the Concept Paper and the feedback received. This final report represents the completion of the mandate and activity of the Task Force.

Section

Data Gathering & Perspectives

The review involved an extensive exercise in data gathering and analysis. This included the following activities.

- Reviewing previous government studies on procurement
- Interviewing 17 major private sector purchasers to understand their procurement practices and gain insight into best practices government could either adopt or adapt
- Meeting with eight trade associations representing government suppliers and obtaining information from five more
- Obtaining views and suggestions from more than 250 public servants
- Analyzing other government procurement approaches
- Conducting research into the use of procurement as a tool for socio-economic policies and programs, including discussions with seven program departments and reviewing 176 cases submitted for consideration of potential socio-economic benefits to the Procurement Review Committee

- Participating in the TBS-led Expenditure Review Committee survey, with questions to departments on their perspectives on the current procurement environment
- Consulting with academics from four countries
- Obtaining information from more than 35 other academic sources;
- Reviewing 112 audit reports
- Identifying and reviewing 23 Acts of Parliament & Regulations and 69 government policies related to procurement

The remainder of this section provides a summary of the information gathered from these stakeholders and sources, while the subsequent section presents an overview of the analysis of this information.

Previous Government Studies

The government has conducted several reviews of procurement, dating back to 1962.

- The Royal Commission on Government Organization (Glassco)
- The Lambert Commission
- The Neilson Task Force on Program Review
- Increased Ministerial Authority and Accountability
- The Renewal of the Public Service in Canada
- DND/PWGSC Procurement Reform
- Supply Business Process Renewal

The Task Force has found that many of the points raised in previous studies remain relevant and worthy of consideration. In some cases, they have led to significant changes that now provide the foundation for further improvement, in other cases, recommendations have been accepted, but implementation has been difficult and only partially successful.

Private Sector as Purchasers

The Task Force interviewed 17 major private sector corporations made up of multiple, diverse divisions, to understand their approach to leveraging procurement for their own purposes. Recognizing that government is, and must be, different from the private sector, business solutions are not always government solutions. The government can learn from the private sector, especially in light of new reporting requirements for publicly traded corporations, and *adapt* solutions without necessarily *adopting* them in whole.

The companies talked about common themes: the challenge of succeeding in an increasingly globalized marketplace; the need to be closely attuned to internal customer needs, demands and expectations; and the constant pressure to provide the best possible return for shareholders. They see procurement as a corporate function for the company, not for individual divisions or profit centres. It is widely accepted as a business line in itself, with close management attention, and a corporate commitment to continuous improvement.

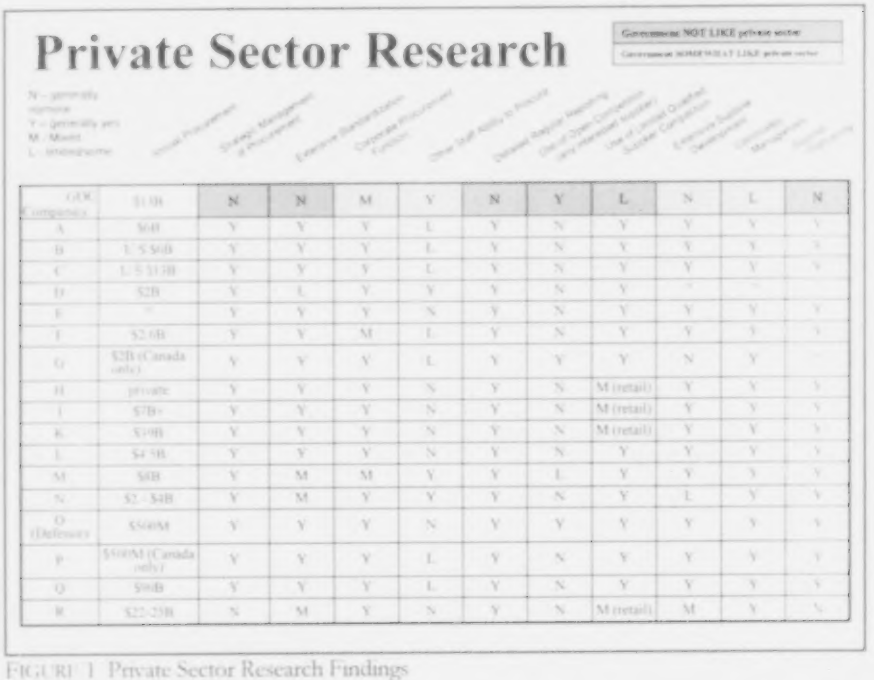
The Task Force heard repeatedly of the benefits of managing procurement strategically at a corporate level, driven by long-term master contracts within which the corporation works closely with its suppliers to achieve constant improvement in both overall costs and operational effectiveness. Companies emphasized that doing business with them is a privilege, not a right. Suppliers have to work hard to earn and maintain that privilege – and in the corporate environment they do not get there through wide-open competition. Significant benefits accrue when the corporation enters into long term strategic alliances with a limited number of suppliers, for example, the sharing of business information, and a joint commitment to continuous improvement of performance and results.

Private Sector Research

FIGURE 1 Private Sector Research Findings

The columns in Figure 1 show the themes raised by private sector purchasers and the degree of consistency both between the Government of Canada and the private sector, and between the various firms. Although the government functions in a different environment than the private sector, there is much that can be modified to fit the government's needs. The competitive nature of the private sector means that innovation and best practices are the basis for survival, and the government can benefit from the knowledge and experience of large companies.

Savings reported, both through the interviews and in other research, by private sector purchasers as a result of improved procurement management and processes, range from five to thirty-five percent.



GOC IT competency	$ OB	N	N	M	Y	N	Y	L	N	L	N
A	$6B	Y	Y	Y	L	Y	N	Y	Y	Y	Y
B	L: $ $6B	Y	Y	Y	L	Y	N	Y	Y	Y	Y
C	L: $ $10B	Y	Y	Y	L	Y	N	Y	Y	Y	Y
D	$2B	Y	L	Y	Y	Y	N	Y	–	–	–
E	–	Y	Y	Y	N	Y	N	Y	Y	Y	Y
F	$2.6B	Y	Y	M	L	Y	N	Y	Y	Y	Y
G	$2B (Canada only)	Y	Y	Y	L	Y	Y	Y	N	Y	–
H	private	Y	Y	Y	N	Y	N	M (retail)	Y	Y	Y
I	$7B+	Y	Y	Y	N	Y	N	M (retail)	Y	Y	Y
K	$39B	Y	Y	Y	N	Y	N	M (retail)	Y	Y	Y
L	$4.9B	Y	Y	Y	N	Y	N	Y	Y	Y	Y
M	$6B	Y	M	M	Y	Y	L	Y	Y	Y	Y
N	$2 - $4B	Y	M	Y	Y	Y	N	Y	L	Y	Y
O (Defence)	$560M	Y	Y	Y	N	Y	Y	Y	Y	Y	Y
P	$160M (Canada only)	Y	Y	Y	L	Y	N	Y	Y	Y	Y
Q	$96B	Y	Y	Y	L	Y	N	Y	Y	Y	Y
R	$22.25B	N	M	Y	N	Y	N	M (retail)	M	Y	N

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Supplier Perspectives

With more than 67,000 potential suppliers registered with PWGSC alone, and more than two million individual businesses in Canada, it has been impossible for the Task Force to engage in broad information gathering with individual suppliers. As an alternative, it sought the views of 13 industry associations whose members are suppliers in key commodity areas to the federal government. In addition, a number of suppliers participated in discussions organized by the PWGSC regional offices.

Individual suppliers are concerned about: the slowness of procurement; the complexity of the procurement system; the lack of standardization; inconsistencies in government approaches; the lack of standardization in what the government buys; reluctance of the government to pre-qualify potential bidders; and delays in government approval processes. Many have commented on the lack of strategic government/supplier relationships and an apparent lack of fairness and transparency. They see government procurement focusing too much on inputs, tasks and specifications rather than outcomes. They suggest that the government find ways to use competition more effectively, coupling this with requests to: (1) recognize quality suppliers; and (2) make competing worth the cost to companies by having only qualified companies compete against each other. Many note that without useful supplier performance information, it is difficult for prime contractors to know which potential sub-contractors may cause a bid to be disqualified. Suppliers also point to the lack of criteria by which poor or superior performance is evaluated, as well as the lack of a satisfactory dispute resolution mechanism. Finally, some suppliers are seeing the result of a lack of in-house (government) understanding of industry as a hindrance to conducting better procurement.

Figure 2 depicts the summary of issues raised by the supplier associations during the initial round of discussions.

Supplier Perspective

ISSUES	Supplier Associations												Total
	1	2	3	4	5	6	7	8	9	10	11	12	13	
FUNDAMENTALS														
Lack of strategic government/supplier relationships	X	X	X	X	X	X	X		X	X	X			10
Open competition	X		X	X	X				X	X	X	X		8
Discrepancies between policies objectives & desired outcome	X	X	X	X	X	X					X		X	8
Bundling & consolidation		X		X									X	3
PROCESSES														
Procurement is too slow	X	X	X	X	X	X		X	X	X	X	X	X	12
Lack of fairness and transparency			X	X	X		X	X	X		X			7
Procurement system is too complex	X		X	X	X	X		X			X			7
Current process dissuades bidders			X		X	X	X	X	X		X			7
Processes are not consistent government-wide				X	X	X	X		X		X			6
Lack of consistent use of vendor performance evaluation	X	X					X				X	X	X	6
Procurement process is too costly				X	X	X		X		X	X			6
No satisfactory dispute resolution mechanism			X		X	X		X			X		X	6
Emphasis is on input/tasks/specs rather than outcomes					X	X			X	X	X			5
TOOLS														
Lack of standardized tools	X	X		X	X			X			X	X	X	8
Lack of a centre of knowledge or excellence					X	X		X		X				4
SOs do not serve a workable purpose					X					X	X			3
HUMAN RESOURCES														
Lack of in-house (gov't) expertise in industries & commodities			X		X	X	X			X				5
Lack of professional training		X		X										2
Lack of reciprocal restrictions on hiring				X							X			2

FIGURE 2: Supplier Associations Research

Following the release of the interim report/concept paper, these and additional associations were invited back to provide additional comments. During this second round of meetings, the original associations interviewed, as well as additional associations, provided feedback.

The Public Service Perspective

The Task Force sought input from across the federal public service. Emphasis lay with the procurement community, where approximately 250 public servants from numerous departments took the time to provide comments and suggestions throughout the review process. The Task Force received feedback from the public service through a number of vehicles.

- The Material Management Institute (MMI)
- Focus groups

    - The National Workshop
    - The Western Conference
    - Break-out sessions
- TBS-led Expenditure Review Committee survey responses
- Task Force Open House for PWGSC Employees
- Meetings with staff in the regions (set up by regional offices)
- Submissions to the Parliamentary Secretary's Web site
- Special submissions such as those of both TBS and DND

Concerns and confusion about PWGSC as a common service provider and the procurement roles and responsibilities of TBS and PWGSC led to many suggestions that the government standardize procurement policies and procedures across the whole of government, and designate a single source of legal advice on contracting. Public servants would like to see a move to more results-based procurement, using competencies and capacities as key supplier selection criteria, and relying less on detailed product or service specifications. Such change would reflect, be supported by, and require greater recognition by government of the specialized expertise involved in procurement. To that end, public servants would like to see recognition of procurement specialists as professionals, based on a professional designation and an external training process (university/college) for procurement specialists.

Many of the concerns raised by those in the public service have been addressed in the recommendations of this report.

Expenditure Review Committee Survey

The Task Force was involved in the TBS-led ERC survey of all departments. The purpose of the procurement and contracting component of the survey was to obtain information from departments on the nature and processes of procurement, both within their organizations and when they utilize PWGSC as a common service agency, and to seek their input on potential areas

for improvement. As of November 18th, 2004, 52 departments had submitted their final responses.

The questionnaire sought qualitative input from respondents rather than strictly quantitative data. Questions were grouped into three main areas.

1) A general description of the respondent department's procurement organization
2) The views on the current procurement situation including
   - Objectives of procurement
   - Effects of legislation, regulations and policies on procurement
   - Processes and tools used in the procurement process
   - What works well or not, when PWGSC is or is not the procurement authority
3) Looking ahead
   - Changes that should be made to government procurement
   - Views on delivery of procurement by a common service organization
   - How to implement changes to procurement

Information provided by respondents was very detailed and informative. While some departments did provide positive feedback about PWGSC there were also indications that PWGSC needs to improve its service delivery in several areas, most notably timeliness and information feedback.

Other Jurisdictions

In its review of other jurisdictions, the Task Force examined, in-depth, the national jurisdictions of Australia, the United Kingdom, the European Union and the United States of America and looked briefly at Denmark, Germany, the Netherlands and the Czech Republic. The Task Force also

reviewed practices in the sub-national jurisdictions of: the ten Canadian provinces; the states of New South Wales and Western Australia; and the province of Western Cape in South Africa. This examination was done through internal reports, literature reviews, Internet searches, country visits and consultant reports. Research focussed on the bid challenge mechanisms as they relate to international trade agreements and governance models used by the various jurisdictions. In the latter, emphasis rested on trying to find documented savings that may have occurred as a result of the many implemented procurement reforms, which have occurred, worldwide. Examples of these can be found in Figure 3.

Examples of Major Procurement Reform Initiatives

Australia	- Government-wide review 1997
United Kingdom	- 1999 Gershon Report, *Tackling the Improvement of Public Sector Procurement* - July 2004, *Releasing Resources to the Front Line: Review of Public Sector Efficiency*
European Union	- New single directive 2004/18/EEC to replace three directives
United States of America	- Reform '88 – created the Federal Acquisition Regulations (FARs) - *Federal Acquisition Streamlining Act*, 1994 - FARs reissued 2001 - *Services Acquisition Reform Act*, 2003
British Columbia	- 2001 New Era
Ontario	- April 2003, major changes in response to Auditor General's 2002 Report
Quebec	- Numerous changes currently being contemplated
Prince Edward Island	- Regulations currently being republished
New South Wales	- Initiative underway to rationalize a large number of policy frameworks that have accumulated over the years

FIGURE 3: Major procurement reform initiatives in other jurisdictions

Socio-Economic Research

Canadian federal government procurement accounts for approximately one third of federal discretionary spending (i.e., excluding subsidies and other

transfer payments and debt payments). As a result, any decisions made respecting government procurement have a ripple effect throughout the economy. Governments often try to manage these effects to maximize the benefits to society and the economy. Task Force research in this area drew from Canadian and other governments, research and service organizations, academic literature, and private sector publications. Issues raised coalesced around three main themes.

1) The choice of procurement or other policy tools to meet a stated objective
2) The effect of other policy objectives on the procurement process
3) The strategic balance between various objectives as determined by elected representatives

While individual socio-economic benefit programs have undergone various analyses and evaluations, there has not been a consistent basis for evaluation of either individual programs or the cumulative effects on the procurement systems. Further work remains to be done to examine the role of existing socio-economic benefit policies with impacts on procurement, and what policies may be necessary to protect the interests of small and medium enterprises. An International Trade Centre (UNCTAD/WTO) document entitled *A Practical Guide for Assessing and Developing Public Procurement Programs to Assist SMEs*, provides one example of a methodology to follow in the future analysis of procurement and socio-economic benefits.

Academic Literature

In addition to academic literature reviews on specific issues (i.e. other jurisdictions and socio-economic benefits), the Task Force found numerous educational institutes, books, journals, conferences and academics that focus on procurement, supply chain, business and government management. A well-

known book from the UK (*Best Procurement Practices* by Erridge, Fee and McIlroy) and an equally well-known journal from the USA (*Journal of Public Procurement* edited by Khi V. That) were reviewed, contributor-by-contributor. Several universities' Web sites in the UK, Canada and the USA were mined using the Internet, as were many sites associated with procurement. Sufficient papers and articles were reviewed by this method to ascertain general themes in academic literature published mostly in North America and Europe, as well as from Australia and South Africa. The Task Force notes that Canadian research in public procurement has been limited but that it is garnering more attention.

Other sources, including presentations and hard copy articles held by the Task Force and PWGSC Acquisitions Branch Training were also used. Educational curricula from programs on public sector administration and procurement were consulted to confirm current academic emphasis. Although detailed, the academic review was not considered exhaustive. The repetition of themes indicated that the number of reviewed sources is statistically significant, and representative of current academic thought.

The academic field has noted the importance of procurement and conducted wide-ranging research into the nature and future of procurement in the public and private sectors. Four main themes emerged from the research.

1) Strategic management of procurement
2) Extensive standardization
3) Corporate procurement function
4) Extensive supplier development

These themes are consistent with those uncovered in other areas of review and with the findings from the Task Force interviews with private sector purchasing organizations.

Audits

The Task Force identified and reviewed a considerable amount of internal audit activity related to procurement. This activity takes place independently within individual departments. In April 2004, TBS published a *Guide for Managers and Internal Audit: Monitoring Procurement and Contracting* which provides broad direction to managers and auditors on key considerations they should bear in mind when monitoring the procurement function and providing assurance services.

The Task Force reviewed 89 procurement-related internal audits/reviews conducted in PWGSC and other government departments since 1996/97. Identified problems, and consequent recommendations for improvement, covered a broad range of issues, the most frequent relating to the following broad categories.

- Compliance with, or clarity of, contract regulations and policies
- Acquisition card usage and improved monitoring thereof
- Responsibilities related to contract administration/contract management
- Clarity of bid evaluation criteria and contractor selection methods
- Delegation of contract authorities
- Justification of decisions to not call for bids
- Need for procurement-related training
- Contractor performance issues

The Task Force also reviewed the more strategic perspectives of the Auditor General by reviewing 23 procurement-related audit reports. Some of the audits involved multiple departments, while others were focused on a single

department. Recurring observations noted in the Auditor General's reports included the following points.

- The lack of clarity of roles and responsibilities - most often in the interface between PWGSC and its client departments and agencies
- Insufficient use of competition to meet government or public expectations
- The need for increased screening of requirements to separate "wants" from "needs"
- The need to improve compliance, and increase monitoring to ensure compliance, with government policies and regulations
- The need to improve performance reporting
- Value for money concerns relating to better results for money spent and achieving savings in procurement
- The need to provide enhanced recourse mechanisms for the supplier community
- The need to improve the time it takes to get suppliers in place to meet specific government operational needs

The recommendations included in Section Four of this report, address many of the observations noted by the internal audit organizations and by the Auditor General. The recommendations will also allow the government to demonstrate better results for money spent and support conclusions about whether procurement performance and supplier relations are improving.

Section

Analysis and Discussions

Themes and Areas of Interest

During the research outlined in the previous section, the Task Force focused its analysis on several key themes. Research has shown that the private sector, public servants, suppliers and academics all focus on similar areas when it comes to best practices in procurement. An analysis of these has proved that many of them are relevant to public sector procurement and are possible to implement, at least in some form, for the Government of Canada. The analysis has produced findings along the following broad themes.

- Governance of Procurement
- Commodity Management
- Supplier Management
- Dispute Resolution
- Contract Management
- Human Resources
- Change Management

Governance of Procurement

In both public and private sector research, the Task Force found that procurement is critical to an organization's overall performance, and so should be managed strategically at a corporate level. This allows for commonly understood objectives, plans and priorities. Some of the elements critical to effective governance are clear objectives, baseline indicators and detailed, regular reporting at all levels. Clear roles and accountabilities, as well as clearly articulated and communicated objectives for government-wide procurement, are critical to achieving savings and avoiding costs. Aspects of clear roles and accountabilities normally include the following elements.

- A focal point for accountability, responsibility and reporting for procurement government-wide. PWGSC, as the common service organization for procurement, would seem to be a logical choice for this role
- A clear distinction between setting high level, overall strategic objectives for procurement, including how procurement is to fit into the overall picture of stewardship (in the Canadian government, this role is normally played by the Treasury Board and TBS) versus determining how to meet those objectives, including responsibility for all necessary policies, guidelines, best practices, procedures and standard terminology, as would be expected from a focal point of accountability (such as the common service organization - PWGSC)
- Reciprocal responsibility of the procurement organization to support other parts of the organization in meeting their program objectives and of individual areas for the necessary planning and management to meet their broad objectives, including the need to identify procurement requirements
- A high-level forum to provide oversight and transparency on the management of procurement and the evolution of procurement best practices

This type of approach in the government of Canada would require changes to the legal and policy framework, such as providing PWGSC with the mandate to contract for services and construction, as it has for goods, and the ability for PWGSC to delegate that authority to departments where appropriate. A modified mandate should reflect the shift from a transactional process to a more strategic approach to procurement. This would also require changes to the Financial Administration Act to permit PWGSC to commit to a minimum volume of purchases on behalf of multiple departments to be charged to their appropriations.

Corporate-level management enables better analysis and provides for better-informed tradeoffs between individual and aggregated requirements, costs and socio-economic benefits. When procurement is managed corporately, the organization as a whole benefits. Even though, at times, there may be more constraints on procurement and some occasions where user departments may have to pay more, the corporate management of procurement benefits departments by allowing them to concentrate on their core duties more effectively.

Corporate management of procurement does not require the centralization of transactions. Rather, by providing departments with such tools as master contractual arrangements, standardized documents and efficient and effective processes to enable decentralized transactions, it allows for flexibility to meet individual needs while still meeting corporate-level objectives. This approach reflects a distinction between procurement activity and authority associated with establishing tools, and purchasing or spending activity and authority associated with using such tools and processes. An important focus of the entire process must be on assisting the user departments to attain their government operational objectives within the bounds of government procurement policy.

This recognition of the relevance and importance of procurement to the overall enterprise, in both the public and private sectors, is a relatively recent and evolutionary change. In the search for efficiencies, the organizations have given varying levels of priority to procurement as a corporate program in and of itself or as a governance area. In the last ten years, significant numbers of jurisdictions have initiated reforms. For the vast majority, there is little data or performance measure, either positive or negative, attesting to the outcomes of the reforms. The one very notable exception in this regard is the United Kingdom. There is ample data to conclude that the UK's initiatives have been very successful and there is much optimism that additional reforms will generate more savings.

The UK's Office of Government Commerce (OGC) reported £ 1.6B in value for money improvements over three years, which exceeded the £1B target. The UK's National Accounting Office audited the achievements and concluded that the £1.6B is a reasonable assessment. Figure 4 illustrates the value for money improvements realized by the UK.

Value for Money Improvements		
Area of improvement	Amount	% of £1.6B
Direct negotiation with suppliers - reduced prices, price avoidance, better terms e.g. improved service for the same price	£1.1B	69%
Joint procurement - departments acting together	£0.2B	12%
Improved contract or asset management - e.g. reduced lifetime operating costs	£0.2B	12%
Reduced process or transaction cost - e.g. use of procurement cards	£0.1B	7%

FIGURE 4: Improvements and Savings

The UK is targeting a further £3B over the next three years, half of which is expected to come from Gateway Reviews. The target was established through the Public Sector Efficiency Review, released in July 2004, which concluded that significant scope exists for further procurement savings through better supply side management and further professionalization of the

procurement function. The OGC will also assume a wider role as "coordinator" of procurement activity in the wider public sector and will establish "change agents" for commodities procurement.

Although the research of other jurisdictions did not uncover data to assess success or failure of reforms, trends can be discerned. It can be said with certainty that none of the jurisdictions reviewed depicts a completely centralized model. At the other extreme, only one jurisdiction could be described as entirely decentralized. Two examples of a solid corporate approach were identified. The remainder of the jurisdictions reviewed, including Australia, the UK, the USA and the EU would be characterized as hybrid models. They have many elements of a corporate approach, such as the policy function, with common objectives for government-wide purposes. Operational delivery, however, tends to be decentralized, but sophisticated jurisdictions do provide instruments and tools on a government-wide basis, usually for discretionary use.

The Canadian procurement system fragments procurement responsibilities into several dimensions: policy versus operations; delegations divided between goods and services; departments sometimes operating independently, sometimes opting for services provided by the common service organization (PWGSC) and sometimes obliged to accept mandatory services from PWGSC. As a result, authority and responsibility for government procurement is dispersed and roles and responsibilities of decision makers are unclear. The lack of central management of procurement and confusion over the respective roles PWGSC, TBS and departments has produced a challenging environment for decision makers. In moving to a corporate approach, many of the above issues can be addressed.

Performance Measurement

Fundamental to successful measurement of procurement performance is the need to relate measures and intended results to organization-wide objectives.

As important as procurement performance indicators are for the procurement component of an organization, they must be continuously developed in the context of corporate objectives and used to manage the procurement activity towards results that advance overall objectives. The Auditor General has observed that improved procurement reporting would allow the government to deal more effectively with value for money issues from a government-wide perspective.

Many of the procurement performance measures currently used in the Canadian federal government tend to be process rather than results or outcome related. The Task Force was able to identify measurements used by other procurement organizations that were related to outcomes and explored the potential for new measurement tools. A frequent best practice for measurement systems is the "Balanced Scorecard", which measures, for instance, the outcomes of forecasting, strategy, sourcing and contracting. Regardless of scorecard variation, associated corporate procurement measures flow from a higher-level corporate framework, focusing on results related to the following issues.

- Employees
  - Professional development/certification
  - Organizational development, well-being and stability
- Users and Suppliers
  - Quality, satisfaction, and relationships
- Internal business process
  - Excellence, soundness, accountability, integrity, innovation and continuous improvement
- Financial aspects
  - Costs of product and processes

Government Price Index

During the Task Force review, an innovative performance measurement tool was considered for internal development and use. The measure, termed the Government Price Index (GPI), would be a procurement price indicator for a representative sample or "basket" of goods and services to aid in monitoring prices on a historical basis. It would compare the cost paid by the government for this basket over time and reflect price movement. The GPI would assist in the demonstration of the value of the procurement function by providing one measurement of results; however, it would not be able to replace other performance measures and would have to be analyzed in concert with them. Further work and consultation on a GPI is being considered.

Commodity Management

Throughout the work of the Task Force, the term "commodity" has been used to apply to the full range of goods, services and construction, rather than the narrow, goods-focussed definition common in financial markets. This is consistent with existing usage in Acquisitions Branch (PWGSC) and in many international organizations. Even so, there has been a great deal of confusion over the definition of "commodity", especially in the private sector. In response to this, the Task Force suggests possibly moving to another commonly used term for the same concept, "category" management. For the purpose of consistency, the Task Force continues to use "commodity" rather than "category" in this report but recommends considering a gradual change to the new term.

The Canadian government has traditionally managed its procurement on a purely transactional basis. The Acquisitions Branch (PWSGC) is structured along commodity lines designed to foster expertise in specific commodities and has been successful to the extent possible in a reactive, transactional environment. The nature of the existing transactional environment leaves little time and few resources to focus on a strategic understanding of the full range of

demand and supply forces at play in the market place or to develop a consistent, dynamic procurement plan to maximize value to the government and Canadians.

One hurdle to overcome in moving to commodity management in the federal government is the current approach to planning and information. Both are focussed on a transaction level and are rarely coordinated beyond the business unit or department. Commodity management, as part of an enterprise-wide, corporate management model, requires that common data and information must be available and accessible for use in planning, management and oversight at various levels and across departments.

Moving to a more planned commodity management model will allow procurement professionals to move beyond the constraints of the current environment to achieve more effective results based on risk, complexity, performance and cost. Through the creation of Commodity Councils, stakeholders at all levels can be engaged. Commodity Councils would be made up of representatives from the procurement organization, clients, suppliers, and departments with responsibility for socio-economic benefit programs to determine the best procurement approach for the specific group of goods or services. This will mean better procurement decisions as the councils will have knowledge of the demand and supply factors of specific markets, market forces and vulnerabilities, and better knowledge of internal needs and fluctuations. Within a consistent overall commodity management framework, [redacted] there will be both tools and approaches tailored to respond to the different requirements for various types of commodities and situations, ranging from common goods and services to highly complex procurement and Major Crown Projects. These will consider the impact of geographic, company size and socio-economic factors relevant to the given commodity.

The following example of how commodity management works reflects what the Task Force heard from some of the large, private sector procurement

organizations. Commodity plans are developed jointly by the procurement area and internal users; once a commodity strategy is established, only the procurement area has the legal right, on behalf of the corporation, to sign contracts subsequently issued under the guidance of these plans. Responsibility centre managers continue to manage their organizations and operations, by having complete liberty within their allocated budgets to make whatever purchases they need using the contracting vehicles established collaboratively by the procurement professionals. It is the role of the procurement professionals to ensure that adequate tools are in place to respond to both corporate needs for overall efficiency and day-to-day operational requirements, including rapid and appropriate satisfaction of exceptional needs. As plans evolve year after year, exceptions are incorporated into the plans, to ensure that these requirements support the larger, corporate objectives.

Supplier Management

Supplier management is a vital part of any procurement system. Relationships with suppliers can be mutually beneficial and the private sector has shown that having intimate knowledge of industry and suppliers is vital. Just as the private sector feels that doing business should be seen as a privilege and not a right, so too should the government.

Private sector procurement organizations work with significantly fewer suppliers and make use of prequalification, including some industry-wide recognition. Pre-qualifying suppliers based on performance history, professional standards, business or other core requirements will help speed up the procurement process and ensure that the government is working with high-quality suppliers.

Supplier performance measures are also important in managing procurement and are critical in managing operations. Private sector organizations use rigorous supplier performance measures to monitor

performance proactively, quickly identifying problems and resolutions, and in many cases, helping to develop suppliers, thereby ensuring better current and future value for money. Suppliers' performance should have a bearing on future business and common performance standards, and measures for suppliers are necessities.

Along with supplier performance, performance incentives, the sharing of innovation costs and savings, and business guarantees are keys to developing more effective, and properly valued, relationships with suppliers. By cultivating better relationships and developing better understanding within government of industry characteristics and practices, procurement will become both smarter and better. Although major companies have reduced their supplier base in many cases, this does not have to be the tactic in creating better government-supplier relationships. Aggregating the demand does not necessarily mean aggregating supply, and a corporate, government-wide approach to managing procurement does not necessarily mean centralization, but a move towards increased standardization and accountability. Effective commodity management, based on the perspectives of a range of stakeholders, will mean mutually beneficial procurement for both government and supplier.

Small and Medium Enterprises

Small and medium enterprises are of vital importance both in government procurement and the economy as a whole. It is important to promote opportunities for small and medium enterprises to participate fully in the procurement process and to grow as businesses, while ensuring that procurement is conducted in the best interest of all Canadians.

The Task Force, government buyers, end users and suppliers all agree on the need to ensure that small and medium enterprises, especially those located outside of central Canada, are not excluded from procurement under a government-wide management approach. The Task Force notes that there are

already several initiatives, in PWGSC and elsewhere in government, designed to meet the needs of small and medium businesses. These include Contracts Canada seminars, making government procurement policies available on the Internet and through public libraries and changing the pricing strategy for the government's electronic tendering service to make it free to suppliers. There is more that can be done.

In providing a level playing field for all suppliers, especially small and medium enterprises, to participate in government procurement, the Task Force has found that commodity management will play an important role. With a move to commodity management, based on the full spectrum of supply and demand factors, it will be possible to ensure that not only are needs of small and medium enterprises considered throughout the procurement system, but also that the measures taken to address these needs are suitable to the risk, complexity and characteristics of a given industry. Commodity councils will include representation to ensure the interests of small and medium enterprises are fully considered.

Again, aggregating demand to manage the government's side of the equation does not, and should not, automatically mean aggregating supply from a single supplier. Full consideration will be given to the nature and size of suppliers in a given industry and the best way to address needs of both clients and suppliers. For those circumstances in which the best option for Canadians is to seek large contracts that may pose a barrier to small and medium enterprises, the Commodity Council will determine the best ways to protect the interests of small and medium enterprises and ensure that they have access either through consortia or through a percentage of subcontracts.

Dispute Resolution

Disputes related to procurement tend to belong to one of two types: disputes related to the bidding and contract award process; and disputes related

to performance within a contract. A robust, government-wide approach to resolving both types of disputes is essential to the government's ability to manage its procurement effectively. Recognizing that the first point of dispute resolution needs to be the parties directly involved, there is also a need for formalized dispute resolution channels. For disputes related to the bidding and contract award process, Canada has several obligations arising from trade agreements. For disputes not covered by these agreements, a coordinated approach is critical to the ability of both the government and suppliers to use contract performance as a meaningful management tool.

Bid Redress Mechanisms

Suppliers and government officials alike expressed the opinion that determinations from Canada's bid challenge authority, the Canadian International Trade Tribunal (CITT), have produced a risk-averse and more costly procurement system. The Federal Government vested CITT with bid review authority pursuant to obligations under international and internal trade agreements to establish an impartial and independent review body.

The intent of the bid review obligation is to provide a quick and inexpensive method to handle complaints. While the Canadian process is quick and inexpensive from a bidder's perspective, unexpected CITT determinations have caused the procurement system to slow and the government to incur unanticipated costs, which have arisen in *at least* two areas.

1) CITT determinations have led procurement officials to become very cautious thereby incurring costly delays
2) Although all the trade agreements provide for limited tendering (*e.g.*, North American Free Trade Agreement [NAFTA] Article 1016), CITT has ruled, on occasion, against invoking these legitimate provisions. Consequently, to avoid challenges, officials compete requirements where competition is unnecessary and inappropriate.

> Competition for competition sake is both costly, lengthy and does not generate value for money

No other jurisdiction with identical or similar trade agreement obligations has imposed upon itself the type of burdensome and onerous approach that Canada has. A review of the systems in Australia, the UK, the USA and the EU reveals many differences to the Canadian system. These differences are surprising given that Canada is a signatory to the same agreements as the UK (World Trade Organization – Agreement on Government Procurement [WTO-AGP]) and the USA (WTO-AGP & NAFTA) and that the Australian and EU arrangements have very similar provisions.

Canada's authority is most comparable to the USA in that the USA has, like Canada, a single, independent bid review authority. The USA uses primarily the Government Accountability Office (GAO) for its NAFTA complaints. The GAO has put significant limitations on the scope and content of any review (a bidder must, for example, demonstrate actual prejudice before it can complain, unlike Canada). As well, in its decisions generally, the GAO takes into account the reasonableness of the government actions in relation to the procurement and does not award damages for lost profit, allowable under the trade agreements, as Canada does.

It is the standard of reasonableness used by the GAO that contrasts most strikingly with the CITT. CITT rulings appear to be based on a standard of correctness within the context of trade agreements, not reasonableness in the wider context of procurement. This standard is also inappropriate because CITT decisions can only be subject to review by the court if they are found to be patently unreasonable. It is noteworthy that in the USA, the former General Services Board of Contract Appeals did not use a standard of reasonableness and lost its authority to hear bid protests after 10 years of what most would consider disruptive decisions.

Canada is the only jurisdiction subject to the review of an authority responsible for both an internal trade agreement (Agreement on Internal Trade [AIT]) as well as international agreements. The lower thresholds of the AIT, together with the inexpensive and rapid complaint process, mean that the CITT entertains more complaints than other jurisdictions. Further, CITT has awarded costs only in favour of suppliers, until it was ordered by the Federal Court in May 2003 to be more even-handed. This situation is exacerbated by the AIT being enforceable only against the federal government and not against the provinces and territories.

The CITT decisions have, on occasion, overridden the contracting authority's use of the public interest rationale and government operational requirements. Dispute resolution mechanisms in other countries do not appear to have this authority.

That the federal government of Canada would interpret its obligations more onerously than any of its other trade agreement partners, internally or externally, seems unnecessary and inappropriate, more especially since the extent of the obligations are not demanded nor shared by the trading partners but arise internally within the federal government.

Contract Management

The importance of good contract management throughout the contracting process is self-evident. Consistent application of good contract management protects the value that the contract was intended to deliver and aids suppliers in achieving the outcomes they proposed. When these contracts are broader, or for longer terms, they provide both more flexibility to address contract management issues as they arise and the need for increased vigilance.

Contract management goes hand in hand with supplier management. Effective contract management means better relationships and better management overall. To achieve these outcomes, common contract performance measures and management processes are key. All parties (the end user, contracting authority and supplier) need timely involvement in, and information on, contract issues. Monitoring is of vital importance for timely identification of management issues and resolution and resolution of problems.

Human Resources

Employees are one of the most important resources that any organization enjoys. This point was highlighted not only by staff, but also by suppliers and supplier associations. Many public servants have experience and knowledge that can be capitalized on to make procurement better. Procurement has evolved to become a sophisticated and complex process. It follows that individuals involved in procurement have developed appropriate operational skills and professional designation commensurate with their responsibilities in the existing environment. It will become increasingly essential, when hiring or promoting individuals, to consider factors such as analytical skills, business knowledge and acumen, a strategic mindset, as well as "softer skills" such as good communication and interpersonal relationships.

As the skills necessary for procurement evolve, it may become necessary to require public servants entering the procurement profession to have an appropriate level of education or training, such as a professional designation. Further, individuals already in procurement may need to be encouraged and supported to improve their knowledge and qualifications by additional formal, informal and on-the-job training.

The primary learning centre within the public service is the Canada School of Public Service. In addition, the Treasury Board has endorsed a Professional Development and Certification Program for the Procurement,

Materiel Management and Real Property Community. This program is designed to deliver training opportunities that provide standardized core and function specific knowledge and skills to this community. The Canada School of Public Service, with PWGSC and the TBS are the logical entities to develop and coordinate provision of additional training opportunities.

The classification of procurement positions may need to be reviewed to reflect the competency profiles related to the more sophisticated and professional role that will be expected. In addition, future admission to or advancement in the procurement function may be based on the new competency profiles.

In the shorter term, concerns about loss of qualified employees resulting from retirements and transfers could be addressed by using part time or casual employment as currently provided for in the Public Service Employment Act. Secondments and mentoring arrangements are also available techniques to diminish the lack of knowledgeable resources. Longer term solutions to concerns regarding the loss of qualified employees could come from improved training and development opportunities within the public service, combined with more general government-wide efforts at recruitment to address the known problems associated with the aging public service population.

Change Management

Changes of the magnitude contemplated in this report call for a culture change; therefore, change management must be a carefully considered element of implementation. Poorly planned, resourced and controlled change management is both counter-productive and inhibits future change efforts. Task Force research has shown that key areas critical to successful change management include communications, governance, strong leadership, goal setting and clear definitions. Properly done, these efforts will create momentum, justify entry costs, make use of government-wide information

management technology and aid in establishing meaningful deadlines. In the context of changing Canadian federal government procurement two of these factors are paramount: the communication of a culture change and governance in the form of strong leadership.

Those affected, from the procurement and user department sides, must be engaged in the change process and need to be able to see how to succeed. Barriers must be broken down, and the changes must be reinforced at all levels through consistent communication. Consistent messages delivered throughout the implementation period will reduce the risk of failure by minimizing the chances for misunderstandings and increasing acceptance.

The governance of the change is also of vital importance. An implementation plan, clearly stating the government's intentions to achieve certain goals, will help focus and guide changes. While the statement of intention does not in itself guarantee buy-in, it will give direction to those who will be engaged in, and affected by, the changes. Two key aspects of governance are having a visible leader and ensuring that stakeholders have a clear role in shaping the implementation. This can be achieved through involvement in planning and establishing performance measurements and rewards.

The degree of transformation contemplated in this report would require a culture change, not only within PWGSC, or even the federal government. All participants in the federal procurement system would be affected and would need to be involved in refining the details of implementation. PWGSC, the central agencies and other departments would need to work together on short and long term initiatives over the next five or more years.

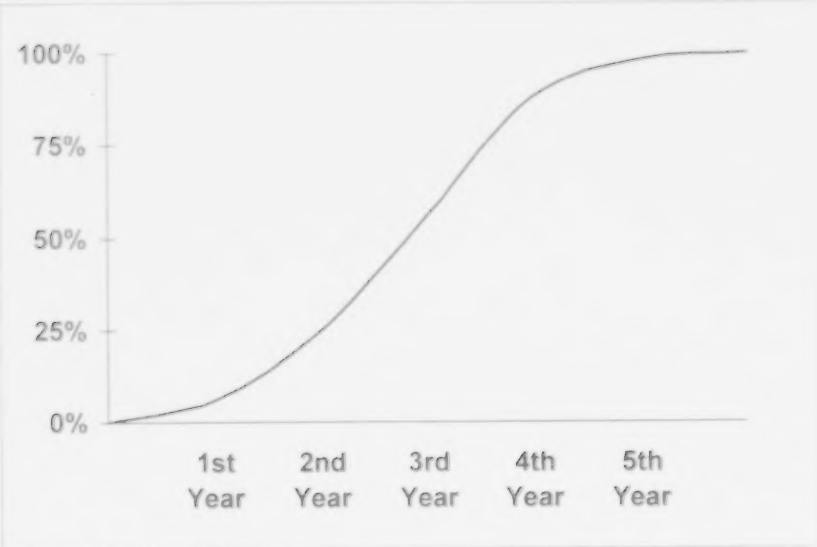

FIGURE 4: Implementation Timeline

Figure four illustrates that initial efforts lay the foundation for future work, the bulk of the effort occurs over three subsequent years, and that the emphasis in the final phase of implementation is on consolidating efforts and finalizing transition to the new environment. Suppliers and potential suppliers of all sizes would need to provide input on proposed changes across the spectrum of risk and complexity involved in each industry. Experts in successful procurement transformation and commodity management would need to be engaged to help relieve pressure on procurement professionals as they continue to meet the procurement needs of the government throughout the transformation process.

Successful implementation would require investment to ensure that changes can be made appropriately and at the right time. Implementation cannot take place all at once; it would need to roll out in waves, to allow a manageable pace of change and to make the modifications to the implementation plan that are a valuable and necessary aspect of any change of this magnitude.

Beyond initial change management, continuous improvement is based on having a system in place to make positive continuous changes. The Task Force sees a need for continuous improvement to satisfy user needs and to meet government-wide goals of quality, best value and timeliness.

Section

Recommendations

The following recommendations are based on the full scope of Task Force activities: the data gathering; analysis; the Concept Paper; and the input received during the discussion period that followed the release of the Concept Paper. Together, the changes proposed have the potential to save the government between $2 billion and $3 billion over the next five years without reducing the quantity, quality or timeliness of the goods and services the government uses to provide its programs and services. Such savings does not come without cost. It is estimated that $100 million would be required over the same five-year period to put in place the revised processes and systems proposed for the new procurement environment.

A. A Corporate Approach to Procurement

The Management of Procurement

A1. The government should adopt a corporate approach to managing procurement, based on the best overall value for Canadians.

A2. The government should establish a focal point for accountabilities related to procurement.

A3. The government should clarify the roles of central agencies and common services in the management and delivery of procurement.

A4. The government should consider the potential need for a body to provide advice and oversight to provide increased transparency on the management of the government's procurement process and insight on evolution in the procurement community of practice.

A5. The government should evaluate the policy and the practice of using procurement to achieve socio-economic benefit program objectives. Criteria should focus on the following factors.

- Procurement as a policy instrument (as opposed to other instruments such as regulation or direct investment based on factors including a capacity and opportunity assessment of the intended beneficiaries and delivery model)
- The impact of potential requirements on procurement processes (including cost and effort)
- Consistency with overall objectives (priorities and consistency within a single policy as well as between policies)

Specific elements of these three factors would be expected to vary from program to program, with the risk, complexity and capacity of the policy goals and delivery mechanisms.

Similar evaluations should be required to support specific programs at inception and thereafter on a five-year or other cycle as identified at inception. Continued use of procurement as an instrument in support of socio-economic benefit programs or other policies should depend on these evaluations. Contracts containing socio-economic benefit provisions should clearly specify

how the socio-economic benefit requirements will be passed down to subcontractors.

A6. Departments should identify their procurement needs on an annual and ongoing basis. Departments' needs should be submitted either directly to PWGSC or channelled through TBS as a part of Strategic Investment Plans or other plans.

A7. PWGSC should prepare an Annual Plan and Report on the government's procurement. The Annual Plan should outline the approach for future years based upon, and crossed-referenced to, the Strategic Investment Plans and other sources of information. The Annual Report should contain performance information on the government's procurement. The Plan and Report should be made public.

A8. If procurement strategies receive approval in principle, through Strategic Investment Plans or other vehicles, PWGSC should have the authority to proceed with procurement and contract award, unless there is a change to the approved strategy.

Legislative, Regulatory and Policy Changes

A9. The government should examine the legislative, regulatory and policy changes necessary for a more corporate approach to procurement. Elements of potential changes are addressed in this report.

Procurement Responsibilities

A10. Where government-wide procurement tools and systems are available, their use should be mandatory and subject to continuous improvement. Requirements that cannot be met through these tools and systems should be handled in accordance with the applicable commodity management plan. Authority to use the tools should be widely delegated

to departments, and within the tools, the only limitations on purchasing should be those associated with spending authority.

A11. Where commodity plans exist, all transactional purchasing authority should be delegated through them in a manner appropriate to the specific commodities.

A12. Where no established commodity plan or tools exist, departments should continue to exercise delegated authority.

A13. Departments should continue to retain contract entry authority to address emergency procurements.

A14. Authority to carry out procurement functions should be limited to identified procurement staff. All procurement staff, government-wide, should receive procurement functional direction from PWGSC. Over time, other reporting models should be considered to reflect the evolving environment.

A15. The management and administration of contracts should be recognized as key responsibilities. Contracts should be administered and managed to ensure optimum value to the Crown, and the associated contract management activities and standards should be included in the commodity management plans.

A16. Departments should designate a senior person (such as the Senior Financial Officer or other Corporate Service representative) to be responsible for identifying department procurement needs and for any procurement action taken by their departments.

A17. Procurement performance standards should be established, including the data elements necessary for government-wide measurement and reporting.

A18. Procurement data from all departments should be collected centrally and reported annually and as required.

B. Commodity Management

B1. The government should manage its procurement of all goods, services and construction based on government-wide, commodity management planning, taking into consideration the total cost of ownership and the risks associated with any given commodity.

B2. Commodity management plans should be developed in consultation with key stakeholders and based on all relevant factors that affect the cost of acquiring, managing and disposing of the commodity. Commodity Councils could be the means of consultation.

B3. Commodity plans should receive approval of the appropriate senior authority. Commodity management plans relating to Major Crown or complex projects, or for commodities which are integral to the legislative mandate of a single department or small number of departments, should also require approval by the relevant Minister(s).

B4. Commodity plans, or appropriate portions thereof, should be made available as public documents to ensure transparency.

B5. The validity period of each commodity plan should be specified within the plan itself. Once approved, the plan should be followed for all transactions, unless significant changes in the procurement environment require a revisiting of the plan. Each plan should be reviewed annually but may be valid for a longer period of time.

B6. Commodity plans should identify an exception procedure and any non-standard requirements must be justified in accordance with that procedure. Exceptions should be recorded, reported and used to refine the commodity plan.

B7. Where indicated by the commodity plan, the government should make effective use of business guarantees (in terms of usage or business volumes). In cases where it is not possible or feasible to guarantee volumes in advance, contracts should provide for rebates or other means to achieve economies of scale.

Sourcing

B8. The government should recognize that open competition is not necessarily the only measure of value, and, therefore, it should be replaced as *the* key performance measure. Each commodity plan should demonstrate which sourcing mechanism will achieve best value for money in procurement and adherence to the trade agreements.

- **Open competition**
- **Competition between qualified suppliers**
- **Non-competitive or sole-source contracting**

Procurement Tools

B9. PWGSC should develop appropriate "standing offers" or other corporate procurement tools that fully reflect value for money and meet the needs of departments. PWGSC should ensure that these tools are readily accessible and easy to use.

B10. Procurement terminology should definitely be standardized for use on a government-wide basis.

B11. Standardized plain language documents should be developed to contribute to the simplification and efficiency of the contracting process.

C. Working with Suppliers

C1. To speed up procurement, and where appropriate, a pre-qualification process for suppliers should be created. Pre-qualification criteria should include performance history, professional and industry standards, business management systems and/or other applicable core requirements.

Relationships

C2. Where appropriate, commodity plans should identify the intention and objectives for strategic relationships with key suppliers. These relationships should be based on the capabilities of the suppliers rather than on specifications.

C3. Suppliers' performance should have a bearing on future business. PWGSC should develop common performance standards and measures for departments to use when evaluating suppliers during and after the selection process and the life of the contract. Resulting performance data, collected by departments, should be reported to PWGSC in a timely manner.

C4. Performance incentives, value engineering (i.e. sharing of innovation costs and savings), business guarantees, information sharing and other such approaches should be included in commodity plans and used to develop more effective relationships.

C5. In developing performance measures, PWGSC should develop a methodology that will reward superior performance and penalize poor performance.

C6. Where there are multiple, long-term contracts for the same commodity, there should be a strategy for re-distribution of work amongst the suppliers, based on performance.

C7. PWGSC should publish a list of suppliers who have lost the capacity or ability to contract with the government.

C8. PWGSC should designate the sole authority to communicate and enforce performance-based supplier sanctions government-wide and to revoke such sanctions. (This does not include international sanctions pursuant to the United Nations Act.)

Dispute and Redress Mechanisms

C9. The government should consider reviewing the existing dispute resolution mechanism in light of the findings included in this report.

C10. There should be a robust government-wide approach to contract management, supplier performance and dispute resolution. For both contract award disputes and contract performance disputes, the procurement officer should remain the first point of contact to resolve disputes.

C11. For disputes over contract performance, any additional measure to address particular circumstance should be reflected in the commodity plan and contract.

D. Human Resources

D1. All individuals who exercise procurement authority should have appropriate procurement training reflecting the qualifications needed to make informed decisions related to procurement.

D2. Individuals entering the procurement profession should not only have appropriate qualifications, but also appropriate capacity for growth.

D3. Both formal and on-the-job training should be mandatory to contribute to better-qualified procurement specialists.

D4. PWGSC should work with the Canada School of Public Service to provide the necessary training.

D5. PWSGC should establish a centre of knowledge management to acquire, maintain, update, and make available for exchange, corporate procurement processes and associated information. It should be a small, but expert-populated, centre for procurement training development, career development, communications, lessons-learned, benchmarking and best practices, including the development, simplification, standardization and continuous improvement of procurement processes and tools not commodity specific.

D6. The Public Service Human Resources Management Agency of Canada should examine the existing procurement classification to ensure they reflect new competency profiles. New competency profiles should reflect not only procurement abilities but also "soft skills" related to planning and strategic sourcing.

D7. All new procurement employees should be hired based on the new and revised competencies.

Section

Conclusion

The scale of change indicated above represents a groundbreaking transformation. With the necessary dedication and investment, this transformation can aid the government in meeting its expressed targets for savings in time, product costs and process costs to support the reallocation of funds to pressing priorities while maintaining integrity in program and service delivery.

The purpose of this review was to examine the current system from a whole-of-government perspective, and based on data and analysis, make recommendations to improve the system. Having the best procurement system is not just about saving money; it is about doing more with that money. That entails clarifying what the objectives of procurement are government-wide, eliminating overlap and duplication across the government and allocating and managing sufficient resources to ensure effective service delivery *for the government as a whole*. We have fully recognized the importance of information for decision-making. There is no way around it; good business decisions are based on good data. We must improve the data the government captures to save money and monitor the procurement system to ensure it is meeting its goals. The building and managing of relationships with suppliers is critical. We have to create a competitive environment that is fair for all involved. We have to seek out high-quality suppliers. We have to provide a satisfactory dispute resolution mechanism. And we have to move to a simpler, more standardized system and create better procurement tools. If a tool

exists, it should be used. If a tool or process is not right, we should change it in such a way that it does work, that it becomes government-wide and that everyone uses it. As observed both by the Task Force and during the discussion period, significant work remains to determine how best to move forward for individual commodities and departments. The changes recommended by this review will be refined and implemented in the coming months and years, leading to a more flexible and collaborative environment, committed to continuous improvement for the benefit of Canada.

Section

Appendices

A. Acknowledgements
B. Concepts for Discussion (Concept Paper)
C. *Government-Wide Review of Procurement: Redesigning Canadian Procurement* (presented at 2004 International Public Procurement Conference)
D. Bibliography

Key Elements of Commodity Management Plans for Goods and Services

Commodity definition

- What is included/excluded in the commodity? Why?
- What related commodities are/should be covered by separate commodity management plan(s)?

Baseline/Benchmarking

- Do we have baseline performance criteria for the acquisition of that commodity such as the price paid for the goods or services, throughput times, quality standards?
- Do other jurisdictions have performance standards (e.g. price, timeliness and cost of service)?
- How will we measure and meet these benchmarks?

History/Metrics/Environmental Scan

- Major departments use the commodity
- Do current issues affect the commodity (e.g. freeze, mad cow, SARS)?
- Is the commodity critical to program delivery/good government?
- Number/value of previous procurements
- Is it a recurring/one time project?
- Major problems encountered before
- Expected lifespan of commodity
- Projected 5 yr government needs
- Previous method(s) of supply
- Performance indicators for PWGSC (how long it takes us, how many people work on this, how much is it costing us)
- Performance indicators for departments (how many people work on this, are we getting feedback on performance)
- Performance indicators for suppliers
- Impact on other commodity management plans

Standards

- What standards apply to the commodity?
  - CGSB/CSA/ISO standards
  - Commercial or Crown specifications
  - Government wide standards
  - Procurement Templates

Best Value

- Define best value for the commodity
- What technical, price, risk and socio-economic issues are relevant to the application of best value at the commodity level?
- What are the evaluation criteria e.g., What are the mandatory and point rated criteria. What are the final selection criteria?
- If not lowest valid proposal, is best value well defined to justify a premium over the lowest responsive bid
- Is there more than one supplier because of capacity issue?
- What are the rules of attribution if more than one supplier?

Policy Issues

- Beyond operational requirements, are there benefits to this procurement (e.g. Export potential for supplier because the Canadian government uses commodity)
- Need to establish a Canadian supplier base?
- Socio-economic considerations
  - Employment Equity
  - Regional Considerations
  - Aboriginal Set Asides
  - WTO/NAFTA/AIT
  - ATI issues
  - Small and medium enterprise issues

Alternatives/options

- For how long will contracts be in place?
- What options should there be?
- Long contract period vs. frequent access to business vs. life cycle etc

Supplier Base

- Who are the suppliers (who, how many, how big, who are industry leaders, financial stability etc, seasonal/business cycle)?
- Government market share (Are we big enough to influence the market, who else buys from them, how do others buy, what prices do others get?)
- Is there a capacity problem?
- Trends in industry (e.g. new products, market changes, how often products are upgraded/updated, who leads or drives change, recent mergers, normal profit margin in industry)
- Industry associations (Is there one, how well organized are they, do they have codes of practice, other stakeholders or interest group?)

Best Practices

- Is our commodity management approach consistent with the best practices in other jurisdictions?
- Are there government specific issues that impede on best practices?

Contract Management Issues

- How will we manage risk?
- Do we have a Steering committee?
- Progress review meetings/reporting
- PWGSC and OGDs to agree on contract management roles

Savings/Success Criteria

- What have we achieved before?
- What will we achieve in this round?
- What might we achieve in the next round?

Other Jurisdictions

- Joint procurements with Provincial or municipal governments
- Procurements in support of programs delivered by provincial or municipal governments (e.g. vaccines)

Method of Supply Issues

- Solicitation tools (e.g. MERX, newspapers)
- Bundling issues (Have we bundled as many requirements as possible)
- Multiple deliveries (How frequent will the deliveries be, are there several delivery points across the country)
- Warehousing issues (Just in time deliveries or will items need to be warehoused)
- Standing Offers (Which type and why, how will data be captured?)
- Supply Arrangements (How will data be captured on usage?)
- Individual Contracts

Choices

- Are we limiting the choices to maximize the economies of scale (e.g. desk top computers configurations, PDAs, cell phones, office supplies and products)?

Risk Factors

- Project Management risks
- Procurement Risks including availability of specialized procurement officers
- Specification risks (Have we properly defined what we want?)

- Quantity risks (e.g. PWGSC acting as a reseller to OGDs to get volume discounts with a soft demand from departments or implications of insufficient quantities when requested)
- Quality risks (Will the product meet expectations, implications of poor quality on program delivery?)
- Price/value risk (Do we get best value?)
- Security of supply (Is there a shortage, import/export restrictions?)
- Contract Management Risk
- Ethics risks (open, transparent, accessible, fair)

Stakeholder Consultation

- Is there an interdepartmental working group on this commodity?
- Have supplier associations been consulted?
- Have the regions been consulted?
- Is there a buy-in on the business rules that will govern the methods of supply?
- Have departments documented their immediate and long term needs?

APPENDIX A

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January, 2005

Concepts for Discussion

January 2005

PARLIAMENTARY SECRETARY'S TASK FORCE

GOVERNMENT-WIDE REVIEW OF PROCUREMENT

CONCEPTS FOR DISCUSSION

FOREWORD

It is with great pleasure that I and my task force present this concept paper for discussion.

We have had extensive conversations with numerous people representing a wide range of perspectives on procurement.

We believe this document draws on those discussions and extensive research to form the basis for discussions on how procurement can be changed to provide better results for all of us.

The Honourable Walt Lastewka, P.C., M.P.

September 2004

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Introduction

On December 12, 2003, the Prime Minister named the Honourable Walt Lastewka, P.C., M.P. as Parliamentary Secretary to the Minister of Public Works and Government Services (PWGSC), with special emphasis on Procurement Review. He is being supported in his mandate by a small, interdepartmental task force.

This examination of the existing procurement environment is being conducted in the broad context of the Government's declared need to review and renew the government's direction across a wide spectrum of expenditure and other critical control areas.

Discussion on the concepts contained in this document will assist the government in refining how it will change its management of procurement to produce demonstrably better results for Canadians.

Procurement

Procurement is worth $13B - one third of the total federal discretionary budget, and is a key function in the federal government. It is a range of processes used by the federal government to acquire goods, services and construction needed to carry out government programs for Canadians.

Even though:

- the current approach to procurement delivers the goods and services necessary for program delivery;
- procurement personnel are committed to seeking the best value; and
- a number of mechanisms are in place to provide transparency and accountability in government procurement;

there is always scope for improvement.

Why improve?

Parliamentarians and senior managers have expectations.

- Significant savings
- Faster, simpler, procurement
- Better value for the whole government
- Continued flexibility to support government's socio-economic priorities

- Increased transparency, accountability and fiscal responsibility,
- Clearer adherence to ethical standards, and
- One Minister responsible and accountable for all procurement.

The public has concerns.

- Public confidence has been shaken: there is a renewed need for public trust, accountability, stewardship, and credibility.

Stewardship of taxpayer dollars can be improved.

- The government is not in a position to know how well it is performing procurement, or how much better it could do.
- Opportunities for reallocation are not being identified or realised.
- Government procurement processes and contracts dissuade potential quality suppliers.

Program and Service Delivery can be better managed.

- Clarify the objectives of procurement.
- Coordinate federal procurement.
- Clarify rationale and objectives for economic and social leverage.
- Improve contract management to decrease risks.
- Reduce costs, delays, poor performance, potential for fraud.
- Increase attention to effective human resource management across government.

Information for decision-making could be more complete.

- Some key information is not captured government-wide.
- What data there is, is known to be inaccurate.
- Information is about process and transactions, not results.
- Lack of government-wide perspective, performance measures and data inhibit effective procurement management and continuous improvement.
- There is no linkage between detailed expenditure reports in the Public Accounts and reports on procurement.

Relationships with suppliers can be improved.

- Relationships are not properly valued.

Procurement can be more efficient and effective.

- The current approach appears to be based on risk aversion.
  - This limits innovation, flexibility and value for money.
  - Opportunities for better service, and ongoing service improvements, are not identified.
- Fragmentation limits efficiency and effectiveness.
  - There is duplication in some areas, and gaps in others.
  - Procurement relies too much on custom solutions rather than standard approaches or standardization of goods and services for government-wide use.

In summary, although there are many strengths, there are also shortcomings in the management of federal government procurement and a need for firm and clear action.

Methodology

The Task Force (TF) has gathered data from many sources:

- large private sector purchasers shared their best practices and lessons learned
- supplier associations identified the positive and negative aspects of the government's procurement process and provided suggestions for improvement
- federal government employees provided suggestions for changes to improve their profession and the procurement process
- six program departments made presentations on socio-economic benefits, and
- 98 federal government departments and agencies are providing information on their procurement processes and challenges.

Together, the 98 departments and agencies (hereafter referred to as the Departments) represent the government-wide, or "corporate", perspective referred to throughout this document.

The TF has also studied:

- past reviews and audits
- legislation, regulations, and policies
- government-wide procurement data
- international bid protest processes
- Procurement Review Committee decisions
- input from interdepartmental steering committee meetings and PWGSC regional offices, and
- academic studies and literature on procurement.

Additional data gathering activities are underway throughout the discussion period.

The specific issue of roles between DND and PWGSC was not the focus of the TF work, in large part because of the many reviews which have been recently carried out. For instance, the Government response to the 1999/2000 Standing Committee on National Defence and Veterans Affairs recommendations noted that a major procurement reform to increase the efficiency and effectiveness of the government's procurement policy framework was underway across government, that value-added support to departments was provided by PWGSC and that the existing relationship supported government-wide objectives related to the process of checks and balances. In conclusion, the government stated that no further examination to integrate DND and PWGSC contracting functions was planned.

The TF notes that the proposals in this concept document are for broad discussion and input from many stakeholders and are not final. Further, as these proposals do not advocate a particular governance structure, the Task Force has concluded that, because of the high-level, strategic nature of this report, individual departmental comments are not appropriate to include at this time.

A.

A Corporate Approach

IN BRIEF

Procurement is critical to overall performance, so needs to be managed strategically at a corporate level.

- Commonly understood objectives, plans and priorities
- Corporate strategic management is implemented in different ways

Detailed regular reporting to various levels is necessary

- Baseline measurements
- Benchmarked performance
- Integrated into business practices

What We Found

Structure/Function

Many firms, as well as some governments, have moved to corporate-wide procurement management from previous regimes of autonomous procurement operations. Within Canada, the Canada Revenue Agency (CRA) provides an example of this principle within a single department. They have shown that having one, clearly identified entity with responsibility for managing an organization's procurement can better support the organization's corporate-wide operations.

Authority and responsibility for government procurement is dispersed and roles and responsibilities of key decision makers are unclear. A lack of central management of government procurement, and confusion about the roles and responsibilities between PWGSC, the Treasury Board Secretariat (TBS) and departments, can produce a challenging environment for decision makers.

Although the PWGSC legislation addresses strategic objectives for procurement with respect to such things as the overall efficiency of government procurement, the current framework and mandates have hampered movement to an effective corporate approach to procurement.

The current system of transactional approval plans does not meet the needs of decision makers or procurement officials. Approval points may not be aligned with critical milestones in the procurement process. In other

jurisdictions and the private sector management emphasis is on corporate value-for-money rather than individual transactions.

The financial system makes consolidated procurement difficult, especially across departments or fiscal years.

There is limited analysis or information on the use of procurement in meeting other national objectives or Socio-Economic Benefits (SEB), either in individual requirements, as specific programs or as a general principle.

Data

There is no single source of detailed procurement data government-wide. Limited information on government-wide procurement is available through the TBS Purchasing Activity Report, the Public Accounts and reports on acquisition card purchases. However, these capture limited detail, and often take several months to be produced. The new requirements for departments to report on contracts valued over $10K include some basic details, but there is no mechanism to aggregate these reports across government.

The government is not alone in the value and diversity in the goods and services it buys. Multi-national private sector organizations purchasing about the same value of goods and services on a worldwide basis from local and multi-national suppliers, are able to access extensive procurement information and it is available corporate-wide in real time. The Task Force was also able to find examples of state governments with fragmented purchasing requiring centralized reporting of contracts over $5,000.

In making its procurement decisions, the government has no reliable information about the impact of various procurement decisions on other government programs or the economy as a whole.

The government, and PWGSC as the enabling department, has limited government-wide information on demand forecasts. Even in an individual department, forecasting of procurement needs is generally limited to capital acquisitions rather than operations and maintenance or service contracting.

Duplication

There is duplication in the procurement process.

Individual departments have developed information management frameworks suited to their specific needs, but often needs are similar. The

effort to produce these frameworks adds delay and administrative cost to the procurement system.

TBS, PWGSC, DND, the RCMP and the CRA all invest significant time and resources in the development and maintenance of strategic and operational policies. This creates the potential for conflicting policies and interpretation.

Duplication has also spread expertise in procurement thinly among departments. This problem is particularly true in DND, where the competition for scarce technical and subject matter experts is exacerbated by the nature of the complex high-risk, high-value procurements in the military context including the imperative of support to operations. This situation, combined with inconsistent application of legislation and policies, can result in risk to specific complex procurement projects and to the government as a whole.

HR / Training

While many departments require financial and human resources training before letting managers exercise authority in these fields, the Auditor General indicates that managers in government have limited knowledge and appreciation of the procurement policies and practices of government.

The TF found only one example of a government department providing mandatory training to procurement personnel before delegating contracting authority. Procurements in departments are often done by non-specialists without the necessary training or knowledge to conduct these activities properly.

What It Means

Structure/Function

Clearly articulated and communicated objectives for government-wide procurement are critical to achieving savings and avoiding costs. Viewing procurement as a government-wide program with its own corporate level objectives will enable better analysis and provide for better informed trade-offs between individual and aggregated requirements, costs and socio-economic benefits.

When procurement is managed corporately, the organization as a whole benefits although individual units may be constrained and may on occasion pay more in the short-term.

With clearer objectives for procurement, SEB programs could be managed on a more effective basis, as the government would have the complete picture. Moreover, SEB contract objectives could be better targeted, thus contributing to success of the programs.

Clear objectives for procurement would help provide clearer distinction between the roles and responsibilities of TBS, PWGSC and departments.

To improve government-wide management of procurement it may be necessary to change portions of the *Financial Administration Act*.

In developing its proposals, the TF concluded that by taking a corporate approach organizationally, and a commodity approach to goods and services procurement, significant barriers to improved procurement could be removed.

Data

The government does not have access to all of the necessary information for making informed decisions on how to manage its procurement in the best interest of Canadians.

Because of the information gaps, the government cannot completely demonstrate the value generated by the procurement program.

Duplication

As the established common service organization for procurement, PWGSC is the logical focal point for procurement responsibility and already has the expertise, appropriate tools and the majority of experienced procurement personnel in place.

Any move to consolidate the responsibility for management and execution of procurement needs to be accompanied by a corresponding increase in accountability and transparency.

HR/Training

When clients make requests and decisions that do not conform to procurement legislation and policy, or conduct procurement themselves without appropriate knowledge, additional burdens are placed on the procurement system as it tries to correct problems.

What To Do

The Management of Procurement

The use of "could" throughout the proposals is designed to signal the preliminary nature of the proposals, pending the input received during discussions.

A1. The government could adopt a corporate approach to procurement, with the support of all Ministers, based on the best overall value for Canadians.

A2. The Minister of PWGSC could be the focal point for accountability and responsibility for procurement government-wide and should support other Ministers in meeting their objectives.

A3. The Treasury Board could set the strategic direction for government-wide procurement.

The Minister PWGSC could set operational procurement.

A4. An Advisory Board could be established to provide input on the strategic direction of procurement. Such a board could include representatives from Departments, central agencies, suppliers and academia and would likely meet 4 to 6 times per year.

The objective of such a board would be to provide increased transparency and oversight on the management of the government's procurement process.

A5. The government could evaluate the policy and the practice of using procurement to achieve SEB program objectives. Criteria could focus on:

- procurement as a policy instrument (as opposed to other instruments such as regulation or direct investment)
- the impact on procurement processes (including cost and effort)
- consistency with overall objectives (priorities and consistency within policy as well as between policies)

Similar evaluations could be required to support specific programs at inception and on a five-year cycle thereafter.

Continued use of procurement as an instrument in support of SEB programs or other policies could depend on these evaluations.

Contracts containing SEB provisions could clearly specify how the SEB requirements will be passed down to subcontractors.

A6. Departments could identify their procurement needs on an annual and ongoing basis, potentially through their Strategic Investment Plans.

Strategic Investment Plans could identify general requirements over the next three years and any specific projects involving procurement over the next five years, and be submitted to Ministers of the Treasury Board.

If the Strategic Plans are approved, including procurement strategies, then the authority to contract could be given with the approval of the Strategic Plan, and subsequent approval could be required only if there is a change in the approach from the Plan.

A7. PWGSC could prepare an annual plan outlining the government's procurement approach for future years based upon the Strategic Investment Plans and other sources of information. The Annual Plan could contain performance information on the government's procurement, and could be a public document.

Legislative, Regulatory and Policy Changes

A8. The government could confirm the authority of PWGSC to contract for services and construction for departments, as it does for goods. This could include ability for PWGSC to delegate that authority to departments where appropriate.

This could be established in the short-term through a change to the Contracts Directive or by making the use of PWGSC for service and construction contracting mandatory under the Common Services Policy. In the long-term this could be confirmed by changes to the Public Works and Government Services Act.

A9. The Financial Administration Act (FAA) applicable to all ministers and in this case applicable to Schedules I, I.1 and II could be amended.

A10. All FAA entities (Schedules I, I.1, and II) including CRA, and the National Film Board could be included under the government-wide procurement implementation plan.

A11. The FAA (Sections 32, 33 and 34) could be changed to allow for PWGSC to put guarantees in contracts on behalf of the government.

Procurement Responsibilities

A12. Where government-wide procurement tools (such as standing offers, or the Government of Canada Marketplace) are available, they could be mandatory.

A13. Departments could continue to exercise delegated authority where no established tool or commodity management plan exists.

As tools become available, a distinction could be made between procurement authority associated with establishing the tools and spending or purchasing authority associated with using those tools.

A14. Authority to carry out procurement functions could be limited to identified procurement staff. All procurement staff could receive functional direction from PWGSC. As needs evolve, all procurement staff could be managed by PWGSC.

Procurement staff could continue to be co-located with Departments.

A15. The management and administration of contracts could be recognized as key responsibilities. PWGSC, with Departments, could administer and manage contracts to ensure optimum value to the Crown, and the associated responsibilities could be included in the commodity management plans.

A16. Departments could designate a senior person (such as the Senior Financial Officer) to be responsible for preparing Strategic Investment Plans and for any procurement action taken by their Departments. Government members of the Advisory Board would be drawn from this collection of individuals.

A17. The Justice Legal Services Unit assigned to PWGSC could be designated as the primary government counsel on contracts.

Delegation

A18. The current contracting authorities in cases of emergencies could remain unchanged.

Contract Management and Reporting

A19. PWGSC could establish procurement performance standards and indicators, including the data elements necessary for measurement and reporting.

A20. PWGSC could collect data, including that from Departments, and report government-wide information.

A21. PWGSC could develop a procurement price indicator for a representative sample or "basket" of goods and services (along the lines of the Consumer Price Index or Toronto Stock Exchange) to aid in monitoring prices on a historical basis.

B.

Commodity Management

IN BRIEF

Knowledge of market, market forces and vulnerabilities

Knowledge of size and potential reach of firms in industry

Knowledge of internal needs and fluctuations

Planning with all stakeholders for better decisions

Optimization at different levels
- Geographically
- Product Lines

What We Found

Commodity Plans

Many large organizations manage their procurement on a commodity basis with input from operational and procurement areas.

Commodity management requires planning for the acquisition of related goods, services or construction (for the purposes of this paper "a commodity"). A commodity management approach to procurement, means:

- identifying future needs
- understanding the costs of the commodity
- planning for the ongoing acquisition of that commodity to produce significant benefits in terms of efficiency
- increasing economies of scale
- standardization and simplification, and
- improving information, planning and supplier management

The procurement authorities consider all relevant factors that effect on the cost of acquiring, managing and disposing of the commodity, from industry capacity to client capacity.

Commodity planning incorporates elements such as:

- how to source and acquire the good or service
- how to specify and standardize the good or service
- how to manage that good or service over time and
- what type of supplier relationship is most productive

Successful use of commodity management maximizes the efficiency and effectiveness of procurement vehicles within a given commodity. These include determining which sourcing process or supplier relationship will produce the optimal value, using the marketplace to help lower overall costs, operating in a disciplined manner in executing the plan and measuring the benefits achieved. The commodity management framework can be applied to standard commercial items, as well as complex requirements.

Techniques to achieve greater value, such as competition, are applied differently than in the current government approach. Competition, in other large organizations, is used where it will produce best results for the organization, such as in selecting a key supplier based on capability, whereas the government uses competition at a lower level, to decide which products to purchase.

When plans have been developed they are approved at the most senior levels as a key component of the overall corporate strategy. Some large organizations, with total expenditures multiple times higher than the federal government's, operate with as few as 50 or so commodity plans. Each commodity plan may have multiple methods of supply, as appropriate.

The government uses standing offers and/or supply arrangements as an attempt to capture some of the benefits of commodity management. Other large organizations make use of long-term relationships, based on framework contracts, with key suppliers. Individual transactions are subject to the framework contract and performance is carefully measured and benchmarked to ensure ongoing value. This mechanism better engages the key suppliers in the process to improve value.

The government's procurement policies and processes reflect the concept that the specification of requirements and a single contract are the starting point and focus for each procurement transaction. Most policies and processes are focused on managing the transaction, not on the management of the risks associated with a given good or service. This is reflected in organizational authorities and basic elements of the legislation, such as the Financial Administration Act and the Treasury Board's limits on

contract entry, despite the fact the PWGSC and Defence Production Acts, for instance, provide the opportunity for managing otherwise.

Top 40 Commodities

In the federal government, the top 40 commodities (as grouped by Goods and Services Identification Number) reflect the vast majority of the annual procurement expenditure.

Standardization

As commodity plans are developed and refined, they often result in decisions to standardize and simplify as many aspects of the purchasing and management process as possible, including such basic elements as terminology, documents, forms, boilerplate, or statements of work. This can also mean standardizing on certain goods or service providers.

Savings

Analysis of PWGSC procurement data and discussions with the private sector have shown that savings can be achieved through commodity management. PWGSC has had limited success in standardizing on products, processes, tools or suppliers due to the current re-active, transaction-based model.

What It Means

Although individual departments may consolidate and standardize some commodities, the variation between and within departments results in areas of additional cost. Increasing the scope of standardization across departments is feasible, particularly for commodities that are common in nature, with respect to sources of supply, functionality, procurement processes and associated risks.

A commodity management framework would provide a more consistent and cost-effective approach for various commodities, and would include, but not be limited to:

- what is included/not included in a commodity grouping
- analysis of departmental requirements
- determining what standards may apply or may be applied
- reducing the supplier base

- addressing policy and socio-economic requirements
- identifying risk factors and mitigation strategies
- identifying the potential supplier base and the relative value of competition vs sole-source or restricted tendering
- standardization or simplification of recurring requirements
- supplier management strategies to ensure ongoing value for money

Replacing the current procurement management regime with a commodity management one will improve benefits to the government-as-a-whole.

What To Do

Commodity Management

The use of "could" throughout the proposals is designed to signal the preliminary nature of the proposals, pending the input received during discussions.

B1. PWGSC could implement government-wide, commodity-management planning for commodities (includes goods, services and construction), taking into consideration the total cost of ownership and the risks associated with any given commodity.

B2. In developing its commodity plans, PWGSC could consult key stakeholders and consider all relevant factors that impact on the cost of acquiring, managing and disposing of the commodity. One mechanism that may be considered for consultation is the creation of Commodity Councils, comprised of representatives from affected Departments. PWGSC may also include industry associations, suppliers and other levels of government in its consultations.

B3. Commodity plans could be included in PWGSC's annual plan for review by its Advisory Board and approval by the Minister. In special circumstances, individual commodity plans could also require approval by another Minister.

B4. Commodity plans, or appropriate portions thereof, could be made available as public documents to ensure transparency.

B5. All procurement authority could be managed in a manner appropriate to the specific commodity.

B6. Standing offers (or other government-wide contractual arrangements) covered by commodity plans could be set up by PWGSC. Transactions under those contracts could be fully authorized for purchases carried out in accordance with the commodity plan. Once standing offers are established in accordance with the commodity plan, use of the standing offers could be widely delegated to departments.

B7. Each commodity plan could specify the validity period. Once approved, the plan could be followed for all transactions, unless significant changes in the procurement environment require a revisiting of the plan. Each plan could be reviewed annually, but may be valid for a longer period of time.

B8. Commodity plans could identify an exception procedure and any non-standard requirements must be justified in accordance with that procedure. Exceptions could be captured and reported.

Procurement Tools

B9. PWGSC could develop appropriate corporate procurement tools to meet the needs of Departments. Once a tool exists, it could be mandatory and alternative tools would not be created.

The Government of Canada Marketplace could be the single vehicle through which procurement tools are available across government.

B10. Where indicated by the commodity management plan, tools could consist of standard evaluation processes and criteria and Statements of Work rather than standing offers.

B11. PWGSC could standardize procurement terminology for use on a government-wide basis.

B12. Standardized plain language documents could be developed to contribute to the simplification and efficiency of the contracting process.

Procurement Process

B13. Where indicated by the commodity plan, the government could maximize its use of business guarantees (in terms of exclusive use or business volumes).

B14. In cases where it is currently not possible to guarantee volumes in advance, contracts could provide rebates for economies of scale.

Sourcing

B15. Open competition could be replaced as "the" key performance measure by the concept of "value achieved" using one of the following sourcing mechanisms determined on a commodity-by-commodity basis and demonstrated in the commodity management plan:

- open competition
- competition between qualified suppliers, and
- non-competitive or sole-source contracting.

C.

Working with Suppliers

IN BRIEF

Doing business should be seen as a privilege and not a right.

Private sector procurement organizations work with significantly fewer suppliers

- Prequalification, including some industry-wide recognition

Private sector organizations use rigorous supplier performance measures to monitor performance proactively and ensure value for money

Common performance measures and management processes are key

All parties need timely involvement in, and information on, contract issues

- Client
- Contracting Authority
- Supplier

If you don't monitor, you're in trouble

- Linked to business process – reporting and results

Contract management is relationship management

What We Found

Sourcing and Selection

To support its operations, the government procures a wide range of goods, services and construction from the private sector. As of December 2001, Statistics Canada reported approximately 2.2 million businesses in Canada. During 2002, the government issued more than 497,000 contracts and amendments to suppliers. However, the government does not have a central information source about its supplier community to facilitate procurement activities. PWGSC maintains a registry of suppliers that contains over 67,000 entries and other departments maintain their own supplier information databases to meet their specific procurement needs.

In addition, the government does not have a central, readily accessible and widely communicated source of information on supplier performance -

including companies or individuals who are legally barred from doing business with the government. In contrast, the TF found that the United States government has a central, published list of firms with which it will not do business.

Private sector firms rarely use open competition. Generally, competition is between a few recognized and acceptable suppliers. Even when they use "open" competition, there is usually some level of pre-qualification required.

Open competition is the usual selection method in Canada and, in some cases, seems to be done even when unreasonable. Many suppliers feel that competition is expensive and time consuming. Suppliers want to compete against other quality suppliers with a fair chance to win the business opportunity and feel that this is necessary to make competition worthwhile to both themselves and government.

Relationships

The federal government's approach to dealing with suppliers differs greatly from the approach taken by private sector purchasers and other jurisdictions. Successful private sector firms and other jurisdictions avoid an adversarial approach by adopting more strategic relationships with their suppliers. To this end, they favour long-term strategic alliances, business information sharing and a supportive monitoring of supplier performance. This leads to continuous improvement of performance and results.

Academic literature research reveals a similar trend in the way organizations are managing supplier relations. As organizations evolve, they place more confidence in supplier arrangements that are based on honesty, openness and sharing.

Dispute and Redress Mechanisms

The supplier community felt that the dispute resolution mechanism for procurement was not fully satisfactory. They recommended that this shortfall be rectified and that the mechanism could be based on modern dispute resolution methodologies.

The Canadian International Trade Tribunal rulings appear to be based on standards of rightness within the context of trade agreements, not reasonableness in the wider context of procurement. In interviews with supplier associations and government purchasing personnel, the TF heard that the Trade Agreements' impact on procurement (resulting from CITT determinations) were producing a risk-averse approach to procurement.

In the US, the former General Services Board of Contract Appeals (GSBCA) did not use a standard of reasonableness and lost its authority to hear bid protests after 10 years of what most would consider disruptive decisions. A review of US regulations with respect to bid protests and the approach of the new reviewing agency, found that it recognizes the procurement officer as being in the best position to determine procurement needs and to assess the bidder's capabilities. To register a bid protest, the complaining party must have been a real contender for the business opportunity. They also have the burden of showing either that the procurement official's decisions on a discretionary matter had no rational basis or the procurement procedure involved violation of the law.

What It Means

The government has an obligation to Canadians to contract with high-quality suppliers who provide goods, services and construction in a timely and cost-efficient manner and maintain high ethical standards. To achieve that, the government must know its supplier community, establish standards or business/core qualifications and measure contract performance.

The supplier community commented on the lack of consistent use of vendor performance evaluation across government. This can be attributed to limited centralized, readily available information about suppliers and performance evaluation criteria and records.

The government's relationship with its suppliers could be one that is complementary and supportive in nature. This means that the government could develop and encourage a more cooperative relationship with its suppliers. This requires a reduction in the number of suppliers that the government deals with and considerations for longer-term relationships when appropriate. Longer-term contracts could foster greater cooperation with suppliers and could provide both parties with better results. The legal aspects of this kind of relationship must, however, remain clear.

In addition, if there were fewer prime contractors and contracts government-wide, procurement, including SEB programs, could be managed on a more effective basis, as the government would have a complete picture. Moreover, such programs could be better targeted, managed and monitored at the prime and sub-contractor levels, thus contributing to the success of the programs.

The supplier community indicated that the lack of strategic government/supplier relationships and information sharing has an impact

on identifying best procurement approaches, selecting the right partner, achieving desired outcomes and the likelihood of success in complex projects.

The government must review the procurement dispute resolution mechanisms in place to provide the supplier community with an appropriate and satisfactory means of dispute resolution.

What To Do

Sourcing and Selection

The use of "could" throughout the proposals is designed to signal the preliminary nature of the proposals, pending the input received during discussions.

C1. High-quality suppliers could be pre-qualified based on performance history, professional standards, business or other core requirements, including management or financial systems. To speed up the process, the qualification could be done in advance of the actual solicitation.

C2. To raise the standards of suppliers, within 24 months, the default requirement for suppliers could be the appropriate ISO certification unless the commodity-management plan determines there is a more appropriate core qualification.

Relationships

C3. Strategic and long-term relationships with key suppliers could be created. Where appropriate, these long-term relationships could be based on the capabilities of the suppliers rather than on specifications.

C4. Performance incentives, value engineering (i.e. sharing of innovation costs and savings), business guarantees, and other such approaches could be used to develop more effective relationships.

C5. Suppliers' performance could have a bearing on future business. PWGSC could develop common performance standards and measures for suppliers, to be used by all Departments. Resulting data could be reported to PWGSC in a timely manner.

C6. In developing performance measures, PWGSC could develop a methodology that will reward superior performance (i.e. over and above the contract requirements) and penalize poor performance.

C7. Where there are multiple, long-term contracts for the same commodity, there could be a strategy for re-distribution of work amongst the suppliers.

C8. PWGSC could designate an appropriate position with the authority to communicate and enforce supplier sanctions government-wide and to revoke such sanctions. (This does not include international sanctions pursuant to the United Nations Act.)

C9. PWGSC could publish a list of suppliers who have lost the capacity or ability to contract with the government.

Dispute and Redress Mechanisms

C10. There could be a government-wide approach to dispute resolution. Two types of procurement disputes commonly arise: contract award disputes and contract performance disputes. For both types, the contracting officer could remain the first point of contact to resolve disputes.

C11. For disputes over contract performance, the commodity plan and the contract could identify the mechanism for their resolution.

C12. The government could look at the redress mechanism to deal with procurement issues.

D.

The Right People

IN BRIEF

Strong emphasis on "soft" skills
- Business acumen
- Strategic mindset
- Analytical skills

Training on procurement elements

Strong performance target and incentives

What We Found

Since all of the proposals developed by the TF have human resource or personnel implications, the qualifications, status and dedication of the employees, at all levels, is of fundamental importance.

The TF noted that within the Government of Canada, audit observations for over a decade have drawn attention to the fact that many senior managers and program officials lack a full understanding of the contracting rules and processes.

Professional Development and Certification

The TBS has developed a professional development and certification program directed towards employees in procurement, materiel management and the real property community. The program encourages employees to acquire appropriate skills, knowledge and expertise, and is in the process of being implemented. The TF supports this initiative as a critical component of an improved procurement process.

In reviewing the practices of other countries, the TF found that in the US, a college or university degree supplemented by additional specialized training is a requirement for procurement personnel. In the United Kingdom, there is usually a requirement for certification from the Chartered Institute of Purchasing and Supply (CIPS) for procurement positions in both government and the private sector. In Australia, both the central Australian government and the state governments have endorsed extensive training requirements provided by universities, colleges and private sector training companies.

It has also been observed that in the future there will be a need for individuals specializing in policy and strategic aspects of procurement, rather than a transactional process that still exists in many countries including Canada. It was commonly found that the low status attributed to the purchasing function combined with the lack of clear and permanent leadership roles, appeared to hold back the development of consistent forward planning. It was observed by a US contact that the Canadian government pay scales in procurement are generally low and this does not attract the kind of professionals the government should have.

In the TF's review of practices in the private sector, the requirement for professional qualifications was not mandatory although there was a strong emphasis on university education and it was acknowledged that training and professional qualifications were desirable.

Procurement officials interviewed strongly stressed the need for recognition as professionals with an important role in program delivery, and a desire for a link between training and authority to reinforce their professionalism.

Aging Workforce

In Canada (as well as in other countries), because of the aging workforce, within the next 10 years we will lose a substantial number of experienced procurement employees. This loss of personnel is coupled with the consequences of a very low intake of personnel during the Program Review exercises in the 1990s.

In PWGSC alone, between 20-30% of the procurement community will be eligible for retirement within the next 5 years.

What It Means

PWGSC, as the entity responsible for procurement, needs to develop a strategic human resources plan addressing the need for developing new skill requirements, on-going training and information transfer to a new generation of employees. Departments, including their senior officials and program mangers, will require a better knowledge of procurement, including planning, to be able to work with a new procurement regime.

The attrition of staff provides an opportunity to bring in new and trained individuals. This will allow the procurement community to evolve without the need to resort to workforce adjustment type schemes to make room

for new people. To attract new people with the desired skill base, it will be essential to make changes to the current classification and staffing approaches to help increase the recognition of procurement as a prestigious profession, essential to government operations.

What To Do

Training

The use of "could" throughout the proposals is designed to signal the preliminary nature of the proposals, pending the input received during discussions.

D1. All individuals who exercise procurement authority under the FAA could have appropriate training in procurement and contracting, reflecting the qualifications needed to make informed decisions related to procurement.

D2. Both formal and on-the-job training could be mandatory to contribute to better-qualified procurement specialists.

D3. PWGSC could work with the Canada School of Public Service (CSPS) to provide this training.

D4. Other training opportunities, including the transfer of knowledge, could be encouraged.

Recruitment

D5. Individuals entering the procurement profession could not only have appropriate qualifications, but also appropriate capacity for growth.

D6. The Public Service Human Resources Management Agency of Canada could modify the existing procurement classification to reflect new competency profiles. New competency profiles could reflect not only procurement abilities but also "soft skills" related to planning and strategic sourcing.

D7. All new procurement employees could be hired based on the new and revised competencies.

E.

List of Acronyms

AG	Auditor General
CIPS	Chartered Institute of Purchasing and Supply (UK)
CITT	Canadian International Trade Tribunal
CRA	Canada Revenue Agency
CSPS	Canada School of Public Service
CY	Calendar Year
DND	Department of National Defence
FAA	Financial Administration Act
FY	Fiscal Year (April 1 to March 31)
GAO	General Accounting Office (US)
GoCM	Government of Canada Marketplace
GSBCA	General Services Board of Contract Appeals (US)
GSIN	Goods and Services Identification Number
HR	Human Resources
IRB	Industrial and Regional Benefit
ISO	International Standards Organization
MMI	Materiel Management Institute
NFB	National Film Board
OGD	Other Government Departments
PWGSC	Public Works and Government Services Canada

RCMP	Royal Canadian Mounted Police
SEB	Socio-economic benefit
TF	Parliamentary Secretary's Task Force, Government-wide Review of Procurement
TB	Treasury Board
TBS	Treasury Board Secretariat

APPENDIX C

Government-wide Review of Procurement: Redesigning Canadian Procurement

(presented at 2004 International Public Procurement Conference)

January 2005

GOVERNMENT-WIDE REVIEW OF PROCUREMENT: REDESIGNING CANADIAN PROCUREMENT

INTRODUCTION AND MANDATE

On December 12, 2003, the Right Honourable Paul Martin, Prime Minister of Canada, named the Honourable Walt Lastewka, P.C., M.P. as Parliamentary Secretary to the Minister of Public Works and Government Services, with special emphasis on Procurement Review. Being carried out by a small Task Force, this review is to result in recommendations to the government by December 2004 on how best to carry out procurement government-wide, including:

- reducing the cost of what the government buys and the government procurement function, and increasing the speed of transactions;
- increasing effectiveness in supporting government priorities; and
- ensuring strong ethical foundations, effective checks and balances, and strong financial management, to ensure value government-wide.

The Task Force is 14 senior public servants with broad and in-depth experience in government procurement, policy, operations and change management, in the private sector and in the voluntary sector. The Review has four elements: data gathering; analysis and options; consultations; and recommendations. This paper presents the status of the Task Force as of July 2004, at which point it had:

- gathered extensive statistical information about federal procurement; reviewed internal and external audit reports; identified and analyzed the laws and policies applicable to procurement;
- interviewed major companies on their procurement practices; obtained supplier views on government procurement; and solicited input from public servants
- obtained information about procurement approaches from other jurisdictions; and obtained information from program departments about the use of procurement to achieve socio-economic benefits;
- consulted with and obtained information from academic sources.

CAVEAT

The Task Force has not completed its data gathering, research and analysis, or consulted with the stakeholders of federal procurement, who may contribute more information, clarify situations, and bring

forward new analyses for consideration. Consequently, the final Report may introduce significant changes to this interim paper.

CANADIAN FEDERAL PROCUREMENT

For this Review, federal procurement is the acquisition of goods, services and construction (commodities) for 98 federal departments and agencies (excluding commercially-oriented Crown Corporations, and also real property purchase and leasing.) Procurement is carried out directly by those organizations, or on their behalf by the government's common service procurement organization, the Acquisitions Service of Public Works and Government Services Canada (PWGSC).

In calendar year calendar 2002[1], published figures show that federal procurement included 497,251 new contracts and amendments, valued at $12.7 Billion. There were also 1.6 million acquisition card transactions, valued at $560 Million, for an overall total usually referenced as $13 Billion. This is a significant amount. In fiscal 2002-2003, the federal government spent $170.6 Billion. $90.9 billion was for subsidies and other transfer payments to governments and individuals; $37.3 billion was public debt charges. A further $4.7 billion was for Crown Corporations. The remaining $37.7 billion was for the departments and agencies that are the subject of this Review. The annual value of procurement spending can be seen as being more than 33% of annual discretionary government program spending.

Table 1: Overview of Federal Procurement

	Gov't #	%	*of which* PWGSC	Gov't $	%	*of which* PWGSC
Contracts:<$25,000	412,500	83	5%	$1.14B	9	20%
>$25,000	21,720	4	60%	$8.6B	67	86%
Amendments	63,031	13	18%	$3B	24	92%
For:						
Goods	311,339	63	8%	$4.47B	35	88%
Services	176,005	35	9%	$7.54B	60	77%
Construction	9,907	2	43%	$0.7B	5	84%
Total	497,251		9%	$12.7B		81%

[1] Unless otherwise specified, all data in this paper are from calendar 2002, the most recent published by the government as of August 20, 2004.

Table 2: Federal Procurement, by Supplier Selection Method

	Government %	Departments %	PWGSC %
Electronic Tendering	63%	46%	66%
Traditional Competitive	11%	29%	8%
ACAN[i]	13%	8%	14%
Non-Competitive	12%	18%	12%

LEGAL FRAMEWORK

All Ministers, and by extension the organizations they head, have the implicit authority to buy goods and services to carry out their mandates.

Federal procurement is governed or affected by more than 15 Acts of Parliament, and ensuing Regulations. Three are key to this Review.

The **Financial Administration Act** (FAA) establishes the Treasury Board (council of Ministers) as the general manager of the government, and is the key statute that underpins all contracting activities and associated financial arrangements and obligations. The *Government Contracts Regulations (GCRs)*, issued pursuant to the FAA, require calling for bids before entering into contracts, unless specific conditions (e.g. emergency, public interest, only one person capable) exist.

The **Department of Public Works and Government Services Act** establishes PWGSC as the government's common service agency for the acquisition and provision of goods (mandatory; authority can be delegated), and services and construction (optional). The **Defence Production Act** gives exclusive authority to buy or otherwise acquire defence supplies to the Minister of PWGSC[ii].

Federal procurement must also observe[iii] Canada's procurement commitments under three major trade agreements: the North American Free Trade Agreement (NAFTA), the World Trade Organization - Agreement on Government Procurement (WTO-AGP), the Agreement on Internal Trade (AIT). The most comprehensive is the AIT, which applies to virtually all goods (threshold $25,000), services and construction (threshold $100,000.) The **Canadian International Trade Tribunal Act** establishes that tribunal as Canada's official bid protest mechanism for the trade agreements.

POLICY FRAMEWORK

More than 35 different policies govern or may influence procurement. Of primary importance, the Treasury Board **Contracting Policy** provides comprehensive direction to government procurement authorities as to

how procurement is to be carried out, and sets out the objective of government procurement:

"...to acquire goods and services and to carry out construction in a manner that enhances access, competition and fairness and results in best value or, if appropriate, the optimal balance of overall benefits to the Crown and the Canadian people"[49].

The Treasury Board **Contracts Directive** sets out the basic contracting limits for Ministers, and special authorities such as contract entry limits for emergencies and specialized services such as the supply of gas and hydro or transportation:

Table 3: Basic Contracting Limits*

	Electronic Tendering	Traditional Competitive	Non-competitive
Goods: PWGSC	$40M	$10 M	$2M
Other ministers**	$400K	$400K	$40K
Services: PWGSC	$20M	$10M	$3M
Other ministers	$2M	$400K	$100K
Construction: PWGSC	$20M	$10M	$500K
Other ministers	$400K	$400K	$40K
Architectural and Engineering Services: PWGSC	$2M	$1M	$100K
Other ministers	$40K	$40K	$40K

* There are also more than 40 exceptional higher limits for specified Ministers, for specified purposes

** With a delegation from the Minister of PWGSC

The **Common Services Policy** provides that Common Service Organizations such as PWGSC will offer services to client departments in a manner that is most supportive of timely, effective, and economical delivery of programs to the public.

Other policies deal with such diverse areas and issues as: limitation of contractor liability; ownership of intellectual property; acquisition of motor vehicles; use of acquisition cards; and payment of contractor travel and accommodation expenses.

Socio-Economic Policies

Eighteen more policies seek to use procurement to achieve the government's national and socio-economic objectives, including:

- **Federal Contractors Program for Employment Equity**: eligibility to bid on contracts valued at more than $200,000;
- **Aboriginal Business Procurement:** mandatory and selective set-asides of procurements for Aboriginal firms; departmental performance objectives for contracting with Aboriginal businesses;
- **Canadian Content** (PWGSC only): when international trade agreements do not apply, may limit competition for contracts to suppliers of Canadian goods and services;
- **Procurement Review for Socio-Economic Benefits:** to enhance the use of procurement in support of industrial and regional development and other national objectives; and
- **Shipbuilding, Repair Refit and Modernization:** encourages competition amongst Canadian shipyards.

THE NEED FOR CHANGE

A major element of the Review is dealing with the many perceptions about federal procurement. It - particularly in PWGSC - is seen as too slow; rules bound; process rather than results oriented; complex, costly, risk averse and wasteful. For some, the bid protest/redress mechanism has chilled the procurement process. Many believe that tax money is wasted, and that the government gets what it contracts for, not what it needs. There are ongoing claims of political or bureaucratic patronage, and frequent observations that the government contracts with bad suppliers – and then contracts with them again. Federal processes are viewed as unfair to suppliers, and excessively adversarial and litigious. For years there have been debates as to whether decentralized procurement is most effective, and whether procurement money should or should not be used to achieve other government objectives.

At $13 Billion per year, the actual and potential impacts of good or bad procurement performance will have a significant effect on the "bottom line" of the government, whether it is in seeking additional funds to pay down the federal deficit; finding monies to be reallocated to government priorities; or responding to Canadians' concerns that taxes are too high.

Procurement managers must be conscious that procurement is one of four major economic activities of government[v]." Permitting that major economic lever to be driven from the bottom up, by individual transactions – as opposed to from the top down, with a clear sense of priorities and strategic objectives – limits severely its effectiveness.

While expenditures of this magnitude offer obvious potential for savings and reallocation, this cannot be realized without corporate direction and accountability, which does not visibly exist in Canada.

As in any country, taxpayers watch procurement decisions closely: they are a key and visible measure of government accountability. In recent years, the details of specific cases of alleged government mismanagement and inadequate stewardship of public funds have attracted extensive public attention. It is clear that the government will be increasingly held to account for its actions.

The government cannot improve as an entity, or save as an entity, as long as the government does not manage as an entity. That is the reality, and the challenge, for the Task Force.

OBSERVATIONS

Data

The Task Force started its review by seeking appropriate data on all aspects of government procurement. It became immediately apparent that at best a partial data foundation for analysis would be available. As of August 20, 2004, the most recent government-wide procurement data were for calendar 2002. Further, the data are only compiled once per year. It is not possible to understand, let alone manage, procurement, when key information is more than 18 months out of date.

The data are incomplete. Government-wide reporting understates the number of transactions; is incomplete in terms of the value of activity; and therefore provides an inadequate base for analysis and management[1]. For example, the total number and estimated value of standing offers[2] issued (primarily by PWGSC) is reported, but not the actual number of call-ups, and their individual or total value. In excluding contracting by Crown Corporations, government consolidated reporting excludes Defence Construction (1951) Limited construction contracting on behalf of National Defence (1,465 contracts, $336.8 million in 2002-03), but includes 590 contracts, valued at $46.9 million, entered into by Defence or PWGSC in 2002.

Finally, the data are not accurate. Unfortunately, examples abound: in August 2004 the PWGSC Internal Audit group distributed the first draft

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[2] Pre-established terms and conditions, including price, for a supplier to sell to the government, but with no guarantee of any business; a contract is created when an order (the call-up) is actually placed.

of an audit of low dollar value (less than $25,000) procurement, which noted widespread inaccuracies in several areas of data capture.

PRIVATE SECTOR AS PURCHASERS

The Task Force interviewed 17 major private sector firms to understand their approach to procurement for their own purposes. The companies talked about common themes: the challenge of succeeding in an increasingly globalized marketplace; the constant pressure of dynamic domestic and international competition; the need to be closely attuned to customer needs, demands and expectations; and the constant pressure to provide the best possible return for shareholders.

Most interviewees noted a significant change in their procurement, away from decentralization and local decision-making. Rather, they see procurement as a corporate function *for the company*, not for individual divisions or profit centres. Instead, procurement is widely accepted as a profit centre in itself – requiring close management attention, and a corporate commitment to continuous improvement.

Procurement is the domain of corporate level specialists, working within and towards commonly understood corporate objectives. The Task Force heard repeatedly of the benefits of standardization at a corporate level, driven by long term master contracts within which the corporation works closely with its suppliers to achieve constant improvement. Companies emphasized that doing business with the company is a privilege, not a right. Suppliers have to work hard to earn and maintain that privilege – and in the corporate environment they do not get there through open competition. Significant benefits accrue when the corporation enters into long term strategic alliances with a few suppliers, sharing business information, with continuous improvement of performance and results.

Finally, the Task Force heard repeatedly of the absolute requirement to have good management information: baseline measurements of corporate performance, ongoing benchmarking against other organizations; and performance measurement seamlessly built into the business.

SUPPLIERS' PERSPECTIVES

With more than 67,000 potential suppliers registered with PWGSC alone, and more than 2 million individual businesses in Canada, it has not to this point been possible for the Task Force to engage in broad information gathering with individual suppliers. As a proxy, it sought the views of 13 industry associations whose members are suppliers to the federal government. In addition, the Task Force benefited from discussions with the supplier community by the Acquisitions Branch of

PWGSC, which is engaged in a broad-based program of renewal of its procurement approaches and processes. It is evident that the supplier community would support and welcome change.

At the *transaction* level (individual procurements) suppliers are concerned about the slowness of procurement; the complexity of the procurement system; inconsistencies in government approaches; the lack of standardization in what the government buys; reluctance of the government to pre-qualify potential bidders; and delays in government approval processes. They note the general lack of standardized tools and approaches used by the government.

Many have commented on the lack of *strategic* government/supplier relationships, and an overall lack of fairness and transparency. They see a government procurement focus on input/tasks/specifications rather than outcomes. They suggest that the government find ways to set reasonable limitations on competition, coupling this with concerns that (i) quality suppliers are not recognized or rewarded, and (ii) there is a need to make competing worth the cost to companies by having only qualified companies compete against each other. Many note in this regard that there is no useful vendor performance evaluation, and no satisfactory dispute resolution mechanism.

Finally, some suppliers are seeing the lack of in-house (government) expertise in industries and commodities, and note the need to have a center of knowledge or excellence

PUBLIC SERVICE PERSPECTIVES

The Task Force continues to seek input from across the federal public service. To this point, emphasis has been on the procurement community, where 170 staff from numerous departments have taken the time to provide comments and suggestions.

Suggestions that the government standardize procurement policies and procedures across the board are clear. Less obvious to non-Canadian, non-federal procurement readers is the proposal that the government reform the Canadian International Trade Tribunal, or create a new dispute resolution mechanism: for the public service: this is a call for less rigid application of procurement rules that are seen to overemphasize competition and process, at the expense of meeting government operational requirements. When public servants note the need to increase the thresholds for NAFTA coverage, they are seeking a reduction in the NAFTA-required 40 days' public posting of competitive opportunities, rather than a change in the process requirements (as

already noted, the Agreement on Internal Trade, which is just as demanding, has broader coverage than the NAFTA.)

It appears that public servants would like to see a move to results-based procurement, using competencies, and capacities as key supplier selection criteria, and relying much less on complex product or service specifications. This change would reflect, be supported by, and equally require government recognition of procurement as more than a clerical position function. To that end, public servants would like to see recognition of procurement specialists as professionals, with a professional designation; and an external training process (university/college) for procurement specialists, that is consistent across the board.

The Task Force continues to seek more information from the public service, through a survey sent to all departments and agencies. Focusing on organizational rather than individual perspectives, this survey covers the full scope of procurement: from data on procurement activities; through defining effective procurement and what its objectives should be; to specific issues such as procurement to achieve socio-economic objectives; to possible directions for the future. However this survey was joined with similar inquiries for other government purposes; the responses have been delayed by technical problems, and as of mid-August the Task Force had not been able to start the analysis.

SOCIO-ECONOMIC OBJECTIVES

It is widely accepted that government procurement is an appropriate vehicle to use to achieve the socio-economic objectives of government. The public sector is not unique in this regard. Many private sector procurement organizations recognize the value of working with "diversity suppliers", even at a short-term price premium, to foster their development, reflecting a trend towards corporate social responsibility (and not incidentally providing market differentiation for competitive advantage.)

Canada's federal government, as noted previously, has some 18 separate policies that seek to use procurement to achieve socio-economic objectives. For the Task Force, the key issue with regard to this is the ongoing debate as to which has and should have priority: a specific operational requirement of a department or agency, or a socio-economic objective. This debate is highlighted by the government's Contracting Policy, which provides that:

"Government contracting shall be conducted in a manner that will:

(a) stand the test of public scrutiny in matters of prudence and probity, facilitate access, encourage competition, and reflect fairness in the spending of public funds;

(b) ensure the pre-eminence of operational requirements;

(c) support long-term industrial and regional development and other appropriate national objectives, including aboriginal economic development;

(d) comply with the government's obligations under the [trade agreements]."

The possible need to trade off, or conflict, between these objectives is readily apparent. There is the additional dimension of how much the government should pay to achieve socio-economic objectives using procurement; and who should pay. Although some maintain that using procurement to achieve socio-economic objectives does not cost, there is no evidence to substantiate this. In fact, the government does not have a broad source of data or mechanisms to measure the relationships between socio-economic and environmental policy and procurement, and the relative costs and benefits[3]. Further, the Task Force has sought this kind of information from several program departments that are responsible for specific socio-economic policy agendas, and been unable to find relevant data.

Given the lack of substantive information on results and costs in this area, the Task Force is focusing its efforts on identifying broad economic measurements in this field, rather than specifics of individual policies.

AUDIT

The Task Force has not found a government-wide strategy for internal auditing of procurement. Internal audits/reviews since 1996/97 were for internal management use, and mainly considered compliance with established rules and processes. Identified problems and consequent recommendations for improvement covered a broad range of issues, such as: delegation of contract authorities; bid evaluation and contractor selection criteria in calls for bids; justification of decisions to not call for bids; clearer statements and carrying out of responsibilities related to contract administration/contract management; the need to capture better contract-related information, including better file documentation/file

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[3] This analysis has to be in both directions – that is, the extent to which procurement decisions and actions support *or work against* other national objectives.

maintenance; compliance with Government Contracts Regulations and policies; linking expenditure information to related contracts; insufficient or non-documented demonstration of value for money; insufficient financial controls to check for over-payments and over-amendments; and the need for more training of procurement personnel.

The Task Force has also analyzed audits by eight departments of acquisition cards (since 1997/98.) Common observations related to the need for: increased use of acquisition cards (decrease cost of transactions); clarification of roles and responsibilities; increased training and awareness; monitoring programs and performance measurement; and better identification of new capital assets.

The Task Force also reviewed the more strategic perspectives in 23 audit reports since 1982 by the Auditor General (AG), an officer of Parliament whose mandate is to audit government operations and provide information that helps Parliament hold the government to account for its stewardship of public funds. The AG frequently notes a lack of clarity of roles and responsibilities in the various departments and agencies with procurement roles across the government, and has suggested that a key role for the common procurement service is increased screening/overview of requirements, inter alia to separate "wants" from "needs". Noting a need to ensure compliance with government policies and rules, and to ensure that activities pass the test of public scrutiny, the AG frequently comments on insufficient use of competition to meet government or public expectations[4].

Another frequent concern of the AG is the need to improve performance reporting, to support conclusions about whether procurement performance is getting better or worse, or if desired objectives are being met; and to ensure that there is credible and relevant information needed to manage. Such improved reporting would allow the government to better deal with value for money issues (such as ensuring that pressures on the government to reduce its size and cost, and to demonstrate better results for money spent, are responded to with an appropriate balance between good results, due process and legal obligations).

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[4] The Task Force notes in this regard a long-standing difference of opinion between the Auditor General and the government as to what constitutes 'competition'. For example, if the government openly and fairly advertises a requirement, and receives only one bid which meets the established criteria, in the view of the AG the process and resulting contract were not competitive.

The AG has also noted the need to provide enhanced recourse mechanisms for the supplier community; and improve cycle times (the time it takes to get suppliers in place, and to meet specific government operating needs.

OTHER ISSUES

Competition

It is a basic premise of public procurement, that open competition is **the** way to achieve best value in public procurement. On the other hand, no private sector company interviewed uses open competition. If open competition equals best value, then these corporations would seem to not be getting best value from their procurement – or, there is another approach through which government will get best value..

The Canadian definition of best value is *"...the combination of price, technical merit, and quality, as determined by the contracting authority prior to the bid solicitation and set out in the bid solicitation evaluation criteria, and which forms the basis of evaluation and negotiation between buyers and sellers to arrive at an acceptable basis for a purchase and sale."* It makes no obvious provision for including in "best value" the achievement of other than procurement objectives. Indeed, the government procurement objective noted earlier provides a clear choice between *'...best value or...the optimal balance of overall benefits...'*

Companies say that they succeed through the careful cultivation, development and evolution of close working relationship with their suppliers. In the 'normal' public procurement environment of open competition, bid protest and risk aversion, this flexibility is difficult to achieve. Canada's traditional approach to calling for bids, strongly influenced since 1994 (implementation of NAFTA) by the Canadian international Trade Tribunals view that open competition is the essence of government procurement, seems inconsistent, and needs to be reconsidered. It appears that open competition is not the best, or even the only, way to achieve bet value. The question then is, is government seeking best value?

Fairness

Another almost mantra of public procurement is the need and obligation to be "fair." Again in the Canadian context, the Contracting Policy provides that *"...Government contracting shall be conducted in a manner that will...**reflect fairness** in the spending of public funds..."* What is not stated is fairness to whom, and how to measure it

The Task Force considers that this is an issue that requires considered analysis and thought. There are too many obvious conflicts between "fairness" to the various participants in procurement, to leave the operating definition up for individual judgment. Those participants and stakeholders need to know what "fair" means in the government procurement context, so that they can govern their activities accordingly.

Transparency

Canadian federal procurement is rules-based. It is essential for integrity and transparency in the process for all stakeholders to have ready access to all of the rules that may apply to a particular situation. The Task Force has found that this is not the case. This conclusion has been supported by discussions with public service procurement staff, who cannot find needed information; find overlapping and sometimes different information and advice, or are expected and able to make decisions which can result in quite different procurement approaches in any given set of circumstances. In the view of the Task Force, it is not acceptable – it is not transparent - to expect either the procurement community, or the supplier community, to have to search for this key information.

Acquisition Renewal

In 2003, PWGSC carried out an in-depth review of its common service procurement functions. The study confirmed that there are a number of areas in which there is significant room for improvement, and in particular the need to replace the large number of custom procurements with standard approaches. The response to that study is Acquisition Renewal, which incorporates and builds on initiatives such as:

- creation of the Government of Canada Marketplace (GoCM), an electronic service that will allow employees to purchase common commodities through readily available approved catalogues[5];
- development of a broad commodity management framework, and specific commodity reviews to determine the most appropriate and effective way to procure specific commodities (initial reviews are being carried out for desktop computers, software, furniture); and

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[5] It is easy to envisage the GoCM evolving into a single portal through which all departments could initiate any type of procurement action (from ordering against government-wide contracts, to selecting articles from approved catalogues, to initiating immediate competitions between pre-established suppliers, to starting complex custom procurements.)

- standardization of procurement instruments for low dollar value procurements.

Human Resources

Public service work is increasingly complex and fast-paced; a vibrant public service is vital to the social, political and economic wellbeing of the country, and essential to ensure the quality of life of Canadians. However, within five years 21% of the procurement, materiel management and real property community will retire. Further, the Auditor General and internal audit reports have consistently criticized the procurement function in government – criticism often directed at managers seen to not know or care about procurement.

To some extent, these issues can be dealt with through effective training – to provide career opportunities and increase the attractiveness of the public service as an employer. There is a new Professional Development and Certification Program for the Procurement, Materiel Management and Real Property Community. Many departments have in-house training programs supported by their own personnel or private firms.

However, this training and certification is often optional for staff, and at this time completion of the Professional Development program is not a specific requirement to be a procurement specialist. This is comparable to practices in the private sector: companies interviewed acknowledged that training and professional qualifications were important, but there was no significant use of mandatory professional designations. In contrast, other countries place heavy emphasis on training and certification (the Task Force is assessing the approaches of the U.S., Australia, and U.K., and the Chartered Institute of Purchasing and Supply.)

Training, however, cannot deal with the growing demands of the government, and of the procurement community itself, for a more professional approach and recognition – demands that echo those from around the world.

Policies

It has been "known" for some years (and confirmed by the Task Force in its dealings with procurement staff) that the policy framework for federal procurement is complex and not well understood. When procurement specialists have the needed knowledge, too often they work with operational staff who do not; who do not understand why procurement is carried out as it is; and who have unrealistic/impossible expectations.

The policy framework has evolved over many years, with many drivers including findings of the Canadian International Trade Tribunal, Auditor General Reports, internal audit reports, and certain problematic files that may have been symptomatic of weaknesses in the process or control framework.

The Treasury Board's Contracting Policy and its many appendices on various procurement-related topics is the primary procurement policy document. Departments can also develop their own policies and procedures provided there is no conflict with TB policies. The Supply Manual, developed for use by PWGSC as a common service organization, is one such example that tends to be used by other departments for their own procurement.

The Secretariat is in a Policy Suite Review in the context of other measures to strengthen public sector management. Task Force members are following the policy development process. Areas of policy that the Task Force has identified as currently lacking or in need of strengthening include:

- a government-wide vendor performance policy,
- a procurement risk management policy; and
- a policy on collection and reporting of relevant procurement data.

OTHER JURISDICTIONS

The Task Force is examining the procurement approaches of other jurisdictions. While considerable information has been gathered, the analysis of individual jurisdictions, and comparative analysis (both between jurisdictions and against the Canadian context) is not sufficiently advanced to permit significant observations.

THE ACADEMIC PERSPECTIVE

The Task Force has examined a cross-section of current information from 38 authoritative academic sources, seeking common themes, topics and issues found in current discussion and analysis and considered important by the international academic community; relationships to other data gathered, such as the private sector "as purchasers" interviews; validation of themes and issues identified by the Task Force's collective experience; and procurement topics to be used in future data gathering, consultation and reporting. While not exhaustive or complete, this review appears to represent current academic thought.

A more fulsome assessment of the academic perspective, with the appropriate citations and credits, is planned for the Task Force's final

report. In the interim, academic analysis of government and business procurement appears clearly to confirm the benefits of general "best practices" used by successful firms. There seems equally clear agreement, that to transform the government procurement structure into a strategic corporate activity that is effective and efficient, the procurement process must be well led and facilitated by clear roles and rules. Further, procurement should be a horizontal planning activity incorporated into the budgetary process for corporate operations. A commodity-based approach effectively and efficiently manages supply and demand, tailoring customer and supplier management practices according to commodity. Finally, it was no surprise to the Task Force to see academics insisting that sophisticated information management, performance measurement, and human resources are fundamental to professional procurement and continuous improvement.

CONCLUSIONS

Canadian federal procurement is good – but there is significant potential for improvement to the federal approach to it and its and management. Specifically, the Task Force believes that the government should:

- manage procurement on a government-wide basis;
- make it clear what procurement is to achieve, and at what price;
- establish clear roles and accountabilities for all stakeholders;
- base procurement approaches on commodity management;
- adopt a new approach to supplier relationships and development;
- support efficiency and effectiveness with an improved bid protest and dispute resolution approach;
- move to standardization and simplification;
- create streamlined processes and tools, and make their use mandatory;
- allocate and manage sufficient resources (skills, functions, and dollars) to ensure effective service delivery *for the government as a whole*; and
- ensure better government-wide procurement information.

In the next phase of its work, the Task Force will develop detailed findings, and assess the implications of those findings on government procurement. That in turn will lead to a set of specific proposals for action, which when published in early September will be used for broad consultations with the various stakeholders of Canadian procurement: taxpayers, politicians, suppliers, special interest groups, operational departments and agencies, central agencies, and the procurement community.

ENDNOTES

[i] An Advance Contract Award Notice (ACAN) allows departments and agencies to post a notice, for no less than fifteen calendar days, indicating to the supplier community that it intends to award a good, service or construction contract to a pre-identified contractor. If no other supplier submits, during the posting period, a statement of capabilities that meet the requirements set out in the ACAN, the competitive requirements of the government's contracting policy have been met. If other potential suppliers submit statements of capabilities during the fifteen calendar day posting period, and meet the requirements set out in the ACAN, the department or agency must proceed to a full tendering process on either the government's electronic tendering service or through traditional means, in order to award the contract.

[ii] Canada is one of the few countries where one procurement organization handles civilian and military procurement.

[iii] Canada has enabled its trade agreement obligations through legislation. Traditionally, however, in the procurement context the trade agreements are referenced separate from the other Acts of Parliament.

[v] Thai, Khi V.; Public Procurement Re-Examined: Journal of Public Procurement, Volume 1, Issue 1, 9-50.

[vi] There are two significant qualifiers to these observations:

(a) PWGSC publishes all of its contract awards, of every value, on an Internet site (www.contractscanada.gc.ca), on an ongoing basis: normally, any given contract award will appear on the site within 30 days of contract issue;

(b) pursuant to a commitment made in its Budget of February 2004, the government is preparing to publish information on all contracts of over $10,000, on one or more web sites. When implemented, this will increase the amount of information in the public domain. At time of writing, the Task Force awaited information as to whether this information will be available for general and ongoing analysis.

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